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(Original Signature of Member)

111TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to allow time for pensions to fund benefit obligations in light of economic circumstances in the financial markets of 2008, and for other purposes.

\_\_\_\_\_  
**IN THE HOUSE OF REPRESENTATIVES**

Mr. POMEROY (for himself and Mr. TIBERI) introduced the following bill;  
which was referred to the Committee on \_\_\_\_\_

\_\_\_\_\_  
**A BILL**

To amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to allow time for pensions to fund benefit obligations in light of economic circumstances in the financial markets of 2008, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE, ETC.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “Preserve Benefits and Jobs Act of 2009”.

1 (b) TABLE OF CONTENTS.—The table of contents for  
2 this Act is as follows:

Sec. 1. Short title, etc.

#### TITLE I—SINGLE EMPLOYER PLANS

Sec. 101. Extended period for single-employer defined benefit plans to amortize certain shortfall amortization bases.

Sec. 102. Expansion of corridor within which single-employer defined benefit plans are allowed to average asset values.

Sec. 103. Lookback for benefit accrual restriction.

Sec. 104. Lookback for credit balance rule.

Sec. 105. Clarification of treatment of expenses.

Sec. 106. Information reporting.

Sec. 107. Benefit restriction effective date for collectively bargained plans.

Sec. 108. Social security level-income options.

Sec. 109. PBGC guarantee.

Sec. 110. Application of extended amortization period to plans subject to prior law funding rules.

Sec. 111. Additions to funding-based limits on benefits and benefits accruals under single-employer plans.

Sec. 112. Reportable events.

#### TITLE II—MULTIEMPLOYER PLANS

Sec. 201. Adjustments to funding standard account rules; reporting clarification.

Sec. 202. Multiemployer plans in endangered or critical status.

Sec. 203. Multiemployer plan mergers and alliances.

Sec. 204. Strengthening participants' benefit protections.

## 3 **TITLE I—SINGLE EMPLOYER** 4 **PLANS**

### 5 **SEC. 101. EXTENDED PERIOD FOR SINGLE-EMPLOYER DE-** 6 **FINED BENEFIT PLANS TO AMORTIZE CER-** 7 **TAIN SHORTFALL AMORTIZATION BASES.**

8 (a) AMENDMENTS TO ERISA.—

9 (1) IN GENERAL.—Paragraph (2) of section  
10 303(c) of the Employee Retirement Income Security  
11 Act of 1974 is amended by adding at the end the  
12 following subparagraphs:

13 “(D) SPECIAL RULE.—

1 “(i) IN GENERAL.—In the case of the  
2 shortfall amortization base of an active  
3 plan for any applicable plan year, the  
4 shortfall amortization installments are the  
5 amounts described in clause (ii) or clause  
6 (iii), as applicable, determined pursuant to  
7 clause (iv).

8 “(ii) 7-YEAR AMORTIZATION.—

9 “(I) IN GENERAL.—The shortfall  
10 amortization installments described in  
11 this clause are—

12 “(aa) in the case of the last  
13 7 plan years in the 9-plan-year  
14 period beginning with the appli-  
15 cable plan year, the amounts nec-  
16 essary to amortize the shortfall  
17 amortization base of the plan for  
18 the applicable plan year in level  
19 annual installments over such  
20 last 7 plan years, and

21 “(bb) in the case of the first  
22 2 plan years in such 9-plan-year  
23 period, interest on such shortfall  
24 amortization base (determined  
25 using the effective rate of inter-

1 est for the plan for the plan  
2 year).

3 “(II) SHORTFALL AMORTIZATION  
4 INSTALLMENT.—The shortfall amorti-  
5 zation installment for any plan year in  
6 the 9-plan-year period under this  
7 clause with respect to such shortfall  
8 amortization base is the annual in-  
9 stallment determined under this  
10 clause for that year for that base.

11 “(III) MINIMUM REQUIRED CON-  
12 TRIBUTION FOR FIRST 2 YEARS.—  
13 Notwithstanding the preceding provi-  
14 sions of this clause, the minimum re-  
15 quired contribution for the two plan  
16 years described in subclause (I)(bb)  
17 shall be increased to the extent nec-  
18 essary so that the minimum required  
19 contribution for such plan year is at  
20 least equal to the applicable percent-  
21 age of the minimum required con-  
22 tribution for the plan year preceding  
23 the first applicable plan year. If the  
24 minimum required contribution is in-  
25 creased by reason of the preceding

1 sentence, the shortfall amortization  
 2 installments with respect to the short-  
 3 fall amortization base for any applica-  
 4 ble plan year shall be reduced to take  
 5 such increase into account, pursuant  
 6 to rules issued by the Secretary of the  
 7 Treasury, but only if the shortfall am-  
 8 ortization installments with respect to  
 9 the shortfall amortization base for  
 10 such applicable plan year are deter-  
 11 mined under this clause. For purposes  
 12 of this subclause, any reference to the  
 13 minimum required contribution for  
 14 any plan year shall be a reference to  
 15 the minimum required contribution  
 16 for such plan year prior to any reduc-  
 17 tion under subsection (f) and without  
 18 taking into account any waiver under  
 19 section 302(c). For purposes of this  
 20 clause, the applicable percentage shall  
 21 be determined as follows:

<b>“For the:</b>	<b>The applicable percentage is:</b>
First applicable plan year .....	105
Second applicable plan year .....	110
Plan year following the second applicable plan year .....	115

22 “(iii) 15-YEAR AMORTIZATION.—The  
 23 shortfall amortization installments de-

1           scribed in this clause are the amounts nec-  
2           essary to amortize the shortfall amortiza-  
3           tion base of the plan for the applicable  
4           plan year in level annual installments over  
5           15 years. The shortfall amortization in-  
6           stallments for any plan year in the 15-  
7           plan-year period under this clause is the  
8           annual installment determined under this  
9           clause for that year for that base.

10           “(iv) ELECTION.—The plan sponsor  
11           may, with respect to a plan, elect whether  
12           to determine shortfall amortization install-  
13           ments under clause (ii), clause (iii), or  
14           without regard to this subparagraph. Such  
15           election shall be made at such times, and  
16           in such form and manner, as shall be pre-  
17           scribed by the Secretary of the Treasury,  
18           and may be revoked only with the consent  
19           of the Secretary of the Treasury. In the  
20           absence of a timely election to determine  
21           shortfall amortization installments under  
22           such clause (ii) or clause (iii), such install-  
23           ments shall be determined without regard  
24           to this subparagraph.

1                   “(E) FAILURE TO MAINTAIN ACTIVE  
2 PLAN.—

3                   “(i) 2 AND 7 RULE.—If the shortfall  
4 amortization installments with respect to a  
5 shortfall amortization base for an applica-  
6 ble plan year are determined under sub-  
7 paragraph (D)(ii), the plan must remain  
8 an active plan for the subsequent plan  
9 year. If such plan fails to be an active plan  
10 in such plan year, the minimum required  
11 contribution for the plan year with respect  
12 to which a failure occurs shall be increased  
13 by all amounts by which the minimum re-  
14 quired contribution for the current plan  
15 year or any prior plan year has been re-  
16 duced by the application of subparagraph  
17 (D), plus interest on such amounts at the  
18 effective rate of interest for the plan for  
19 the plan year for which the increase ap-  
20 plies. However, any such increase in the  
21 minimum required contribution shall not  
22 require a contribution to the extent that  
23 the contribution would cause the value of  
24 plan assets for the plan year to exceed the  
25 funding target of the plan for the plan

1 year (determined without regard to sub-  
2 section (i)(1)). If the minimum required  
3 contribution is increased by reason of this  
4 clause, the shortfall amortization install-  
5 ments with respect to the shortfall amorti-  
6 zation base for any applicable plan year  
7 shall be reduced to take such increase into  
8 account, pursuant to rules issued by the  
9 Secretary of the Treasury, but only if the  
10 shortfall amortization installments with re-  
11 spect to the shortfall amortization base for  
12 such applicable plan year are determined  
13 under subparagraph (D)(ii). For purposes  
14 of this clause, any reference to the min-  
15 imum required contribution for any plan  
16 year shall be a reference to the minimum  
17 required contribution for such plan year  
18 prior to any reduction under subsection (f)  
19 and without taking into account any waiv-  
20 er under section 302(c).

21 “(ii) 15-YEAR RULE.—If the shortfall  
22 amortization installments with respect to a  
23 shortfall amortization base for an applica-  
24 ble plan year are determined under sub-  
25 paragraph (D)(iii), the plan must remain



1 an active plan for the 7 subsequent plan  
2 years. If such plan fails to be an active  
3 plan in any such plan year, the shortfall  
4 amortization base, reduced by the principal  
5 portion of prior shortfall amortization in-  
6 stallments relating to that base, shall be  
7 amortized over 7 years.

8 “(iii) SPECIAL RULE.—In the case of  
9 an applicable plan year that ends before  
10 July 1, 2009, the plan sponsor may elect  
11 not to have the active plan requirement  
12 apply for such plan year. If such election  
13 is made—

14 “(I) clause (i) shall be applied so  
15 as to require the plan to remain an  
16 active plan for the 2 subsequent plan  
17 years (instead of 1 subsequent plan  
18 year) under rules prescribed by the  
19 Secretary of the Treasury, and

20 “(II) clause (ii) shall be applied  
21 by substituting ‘8’ for ‘7’ the first  
22 place it appears and by substituting  
23 ‘6’ for ‘7’ the second place it appears.  
24 Such election shall be made at such times,  
25 and in such form and manner, as shall be

1 prescribed by the Secretary of the Treas-  
2 ury, and may be revoked only with consent  
3 of the Secretary of the Treasury.

4 “(F) APPLICABLE PLAN YEAR.—For pur-  
5 poses of this paragraph, the term ‘applicable  
6 plan year’ means—

7 “(i) except as provided in clauses (ii)  
8 and (iii), any plan year beginning in 2009  
9 or 2010,

10 “(ii) in the case of a plan with a plan  
11 year beginning after October 31 and before  
12 January 1, any plan year beginning in  
13 2008 or 2009, and

14 “(iii) in the case of a plan for which  
15 the valuation date is not the first day of  
16 the plan year, any plan year beginning in  
17 2008 or 2009.

18 “(G) ACTIVE PLAN.—

19 “(i) IN GENERAL.—For purposes of  
20 this paragraph, the term ‘active plan’  
21 means a defined benefit plan that is de-  
22 scribed in clause (ii), (iii), or (iv). A de-  
23 fined benefit plan may satisfy different  
24 clauses in different years. Notwithstanding  
25 clause (ii), (iii), or (iv), a defined benefit

1 plan is not an active plan if an election  
2 under section 402(a)(1) of the Pension  
3 Protection Act of 2006 is in effect with re-  
4 spect to such plan, or if the plan is de-  
5 scribed under rules prescribed by the Sec-  
6 retary of the Treasury designed to prevent  
7 evasion of the purposes of this subpara-  
8 graph.

9 “(ii) DEFINED BENEFIT PLAN.—

10 “(I) IN GENERAL.—A defined  
11 benefit plan is described in this clause  
12 if minimum benefit accruals are pro-  
13 vided on behalf of all employees who  
14 have satisfied the plan’s age and serv-  
15 ice requirements and who would, but  
16 for any prior amendment ceasing ac-  
17 cruals, be eligible for an accrual under  
18 the plan.

19 “(II) SPECIAL RULE REGARDING  
20 MINIMUM BENEFIT ACCRUALS.—For  
21 purposes of this clause, the employees  
22 described in this clause shall be treat-  
23 ed as receiving minimum benefit ac-  
24 cruals for a plan year if all such em-  
25 ployees are accruing a benefit and—

1 “(aa) the rate of benefit ac-  
2 crual for any such employee is  
3 not less than the greater of—

4 “(AA) the rate of ben-  
5 efit accrual that would have  
6 been applied to the employee  
7 under the benefit formula in  
8 effect on July 1, 2009, dis-  
9 regarding any amendments  
10 to the plan adopted after  
11 June 30, 2009, or

12 “(BB) the rate of ben-  
13 efit accrual that would have  
14 applied to the employee  
15 under the benefit formula in  
16 effect as of the last date  
17 prior to the effective date of  
18 any plan amendment adopt-  
19 ed prior to July 1, 2009  
20 that ceased providing benefit  
21 accruals based on additional  
22 service credit with respect to  
23 such employee, or

24 “(bb) the target normal cost  
25 (without regard to plan adminis-

1 trative expenses) for such plan  
2 year with respect to such employ-  
3 ees is at least 3 percent of the  
4 aggregate compensation (as de-  
5 fined in section 415(c)(3) of the  
6 Internal Revenue Code of 1986)  
7 of such employees for such plan  
8 year. Solely for purposes of this  
9 paragraph, target normal cost  
10 shall be determined by using 5  
11 percent in lieu of the interest  
12 rate applicable under subsection  
13 (h) and by using the mortality  
14 tables described in subsection  
15 (h)(3)(A).

16 “(iii) DEFINED CONTRIBUTION  
17 PLAN.—

18 “(I) IN GENERAL.—A defined  
19 benefit plan is described in this clause  
20 if—

21 “(aa) the defined benefit  
22 plan satisfies clause (ii) except  
23 with respect to employees whose  
24 failure to accrue a minimum ben-  
25 efit is attributable to a plan

1 amendment adopted prior to July  
2 1, 2009, and

3 “(bb) the plan sponsor (or  
4 any member of such sponsor’s  
5 controlled group) maintains a de-  
6 fined contribution plan under  
7 which allocations are made on be-  
8 half of each employee whose fail-  
9 ure to accrue a benefit under the  
10 defined benefit plan causes the  
11 defined benefit plan not to be de-  
12 scribed in clause (ii).

13 “(II) MINIMUM ALLOCATIONS.—  
14 Such allocations shall not be less than  
15 3 percent of an employee’s compensa-  
16 tion (as determined in accordance  
17 with section 414(s) of the Internal  
18 Revenue Code of 1986). A defined  
19 contribution plan shall not fail to sat-  
20 isfy the requirements of this clause  
21 solely by reason of the failure to make  
22 allocations on behalf of one or more  
23 highly compensated employees (as de-  
24 fined in section 414(q) of the Internal  
25 Revenue Code of 1986).

1 “(III) ALLOCATIONS TAKEN INTO  
2 ACCOUNT.—For purposes of this  
3 clause, only the following types of al-  
4 locations may be taken into account:

5 “(aa) Employer contribu-  
6 tions or forfeitures allocated  
7 without regard to whether an em-  
8 ployee makes an elective con-  
9 tribution or an employee con-  
10 tribution.

11 “(bb) In the case of the first  
12 plan year ending after June 30,  
13 2009, matching contributions (as  
14 defined in section 401(m)(4)(A)  
15 of the Internal Revenue Code of  
16 1986).

17 “(iv) NONQUALIFIED PLAN.—

18 “(I) IN GENERAL.—A defined  
19 benefit plan is described in this clause  
20 if no key employee (as defined in sec-  
21 tion 416(i) of the Internal Revenue  
22 Code of 1986 without regard to para-  
23 graph (5) thereof) accrues any new  
24 benefits for the plan year under any  
25 nonqualified deferred compensation

1 plan (as defined in section 409A(d) of  
2 the Internal Revenue Code of 1986)  
3 maintained by the sponsor of the de-  
4 fined benefit plan or by any member  
5 of such sponsor's controlled group.

6 “(II) REVOCATION OF CERTAIN  
7 ELECTIONS.—The Secretary of the  
8 Treasury shall provide rules under  
9 section 409A of the Internal Revenue  
10 Code of 1986 under which elections to  
11 defer compensation made prior to the  
12 date of enactment of this clause may  
13 be revoked by an employee within 180  
14 days after the date of enactment of  
15 this clause, but only to the extent  
16 that, pursuant to this clause, such  
17 elections could otherwise cause a fail-  
18 ure of the employee to—

19 “(aa) earn compensation  
20 under an arrangement that, but  
21 for the election, is not a non-  
22 qualified deferred compensation  
23 plan (as defined in section  
24 409A(d) of the Internal Revenue  
25 Code of 1986), and



1                   “(bb) earn compensation  
2                   that is not payable to the em-  
3                   ployee in another form or under  
4                   a different arrangement.

5                   “(v) MULTIPLE EMPLOYER PLANS.—  
6                   In the case of a defined benefit plan de-  
7                   scribed in section 413(c)(4)(B) of the In-  
8                   ternal Revenue Code of 1986, such plan  
9                   shall be treated as an active plan if such  
10                  plan satisfies clause (ii), (iii), or (iv) with  
11                  respect to at least 85 percent of the em-  
12                  ployers participating in such plan. In ap-  
13                  plying the 85 percent requirement, dif-  
14                  ferent employers may satisfy different  
15                  clauses.

16                  “(vi) CONTROLLED GROUP.—For pur-  
17                  poses of this paragraph, the term ‘con-  
18                  trolled group’ means all employers treated  
19                  as a single employer pursuant to sub-  
20                  sections (b) and (c) of section 414 of the  
21                  Internal Revenue Code of 1986.”.

22                  (2) CONFORMING AMENDMENT.—Paragraph (1)  
23                  of section 303(c) of such Act is amended by striking  
24                  “the shortfall amortization bases for such plan year  
25                  and each of the 6 preceding plan years” and insert-

1       ing “any shortfall amortization base which has not  
2       been fully amortized under this subsection”.

3       (b) AMENDMENTS TO INTERNAL REVENUE  
4 CODE OF 1986.—

5           (1) IN GENERAL.—Paragraph (2) of section  
6       430(c) of the Internal Revenue Code of 1986 is  
7       amended by adding at the end the following sub-  
8       paragraphs:

9           “(D) SPECIAL RULE.—

10           “(i) IN GENERAL.—In the case of the  
11           shortfall amortization base of an active  
12           plan for any applicable plan year, the  
13           shortfall amortization installments are the  
14           amounts described in clause (ii) or clause  
15           (iii), as applicable, determined pursuant to  
16           clause (iv).

17           “(ii) 7-YEAR AMORTIZATION.—

18           “(I) IN GENERAL.—The shortfall  
19           amortization installments described in  
20           this clause are—

21           “(aa) in the case of the last  
22           7 plan years in the 9-plan-year  
23           period beginning with the appli-  
24           cable plan year, the amounts nec-  
25           essary to amortize the shortfall

1 amortization base of the plan for  
2 the applicable plan year in level  
3 annual installments over such  
4 last 7 plan years, and

5 “(bb) in the case of the first  
6 2 plan years in such 9-plan-year  
7 period, interest on such shortfall  
8 amortization base (determined  
9 using the effective rate of inter-  
10 est for the plan for the plan  
11 year).

12 “(II) SHORTFALL AMORTIZATION  
13 INSTALLMENT.—The shortfall amorti-  
14 zation installment for any plan year in  
15 the 9-plan-year period under this  
16 clause with respect to such shortfall  
17 amortization base is the annual in-  
18 stallment determined under this  
19 clause for that year for that base.

20 “(III) MINIMUM REQUIRED CON-  
21 TRIBUTION FOR FIRST 2 YEARS.—  
22 Notwithstanding the preceding provi-  
23 sions of this clause, the minimum re-  
24 quired contribution for the two plan  
25 years described in subclause (I)(bb)

1 shall be increased to the extent nec-  
2 essary so that the minimum required  
3 contribution for such plan year is at  
4 least equal to the applicable percent-  
5 age of the minimum required con-  
6 tribution for the plan year preceding  
7 the first applicable plan year. If the  
8 minimum required contribution is in-  
9 creased by reason of the preceding  
10 sentence, the shortfall amortization  
11 installments with respect to the short-  
12 fall amortization base for any applica-  
13 ble plan year shall be reduced to take  
14 such increase into account, pursuant  
15 to rules issued by the Secretary, but  
16 only if the shortfall amortization in-  
17 stallments with respect to the shortfall  
18 amortization base for such applicable  
19 plan year are determined under this  
20 clause. For purposes of this subclause,  
21 any reference to the minimum re-  
22 quired contribution for any plan year  
23 shall be a reference to the minimum  
24 required contribution for such plan  
25 year prior to any reduction under sub-

1 section (f) and without taking into ac-  
 2 count any waiver under section  
 3 412(c). For purposes of this clause,  
 4 the applicable percentage shall be de-  
 5 termined as follows:

<b>“For the:</b>	<b>The applicable percentage is:</b>
First applicable plan year .....	105
Second applicable plan year .....	110
Plan year following the second applicable plan year .....	115

6 “(iii) 15-YEAR AMORTIZATION.—The  
 7 shortfall amortization installments de-  
 8 scribed in this clause are the amounts nec-  
 9 essary to amortize the shortfall amortiza-  
 10 tion base of the plan for the applicable  
 11 plan year in level annual installments over  
 12 15 years. The shortfall amortization in-  
 13 stallments for any plan year in the 15-  
 14 plan-year period under this clause is the  
 15 annual installment determined under this  
 16 clause for that year for that base.

17 “(iv) ELECTION.—The plan sponsor  
 18 may, with respect to a plan, elect whether  
 19 to determine shortfall amortization install-  
 20 ments under clause (ii), clause (iii), or  
 21 without regard to this subparagraph. Such  
 22 election shall be made at such times, and  
 23 in such form and manner, as shall be pre-

1           scribed by the Secretary, and may be re-  
2           voked only with the consent of the Sec-  
3           retary. In the absence of a timely election  
4           to determine shortfall amortization install-  
5           ments under such clause (ii) or clause (iii),  
6           such installments shall be determined with-  
7           out regard to this subparagraph.

8           “(E)   FAILURE   TO   MAINTAIN   ACTIVE  
9           PLAN.—

10           “(i) 2 AND 7 RULE.—If the shortfall  
11           amortization installments with respect to a  
12           shortfall amortization base for an applica-  
13           ble plan year are determined under sub-  
14           paragraph (D)(ii), the plan must remain  
15           an active plan for the subsequent plan  
16           year. If such plan fails to be an active plan  
17           in such plan year, the minimum required  
18           contribution for the plan year with respect  
19           to which a failure occurs shall be increased  
20           by all amounts by which the minimum re-  
21           quired contribution for the current plan  
22           year or any prior plan year has been re-  
23           duced by the application of subparagraph  
24           (D), plus interest on such amounts at the  
25           effective rate of interest for the plan for

1 the plan year for which the increase ap-  
2 plies. However, any such increase in the  
3 minimum required contribution shall not  
4 require a contribution to the extent that  
5 the contribution would cause the value of  
6 plan assets for the plan year to exceed the  
7 funding target of the plan for the plan  
8 year (determined without regard to sub-  
9 section (i)(1)). If the minimum required  
10 contribution is increased by reason of this  
11 clause, the shortfall amortization install-  
12 ments with respect to the shortfall amorti-  
13 zation base for any applicable plan year  
14 shall be reduced to take such increase into  
15 account, pursuant to rules issued by the  
16 Secretary, but only if the shortfall amorti-  
17 zation installments with respect to the  
18 shortfall amortization base for such appli-  
19 cable plan year are determined under sub-  
20 paragraph (D)(ii). For purposes of this  
21 clause, any reference to the minimum re-  
22 quired contribution for any plan year shall  
23 be a reference to the minimum required  
24 contribution for such plan year prior to  
25 any reduction under subsection (f) and

1 without taking into account any waiver  
2 under section 412(c).

3 “(ii) 15-YEAR RULE.—If the shortfall  
4 amortization installments with respect to a  
5 shortfall amortization base for an applica-  
6 ble plan year are determined under sub-  
7 paragraph (D)(iii), the plan must remain  
8 an active plan for the 7 subsequent plan  
9 years. If such plan fails to be an active  
10 plan in any such plan year, the shortfall  
11 amortization base, reduced by the principal  
12 portion of prior shortfall amortization in-  
13 stallments relating to that base, shall be  
14 amortized over 7 years.

15 “(iii) SPECIAL RULE.—In the case of  
16 an applicable plan year that ends before  
17 July 1, 2009, the plan sponsor may elect  
18 not to have the active plan requirement  
19 apply for such plan year. If such election  
20 is made—

21 “(I) clause (i) shall be applied so  
22 as to require the plan to remain an  
23 active plan for the 2 subsequent plan  
24 years (instead of 1 subsequent plan



1                   year) under rules prescribed by the  
2                   Secretary, and

3                   “(II) clause (ii) shall be applied  
4                   by substituting ‘8’ for ‘7’ the first  
5                   place it appears and by substituting  
6                   ‘6’ for ‘7’ the second place it appears.

7                   Such election shall be made at such times,  
8                   and in such form and manner, as shall be  
9                   prescribed by the Secretary, and may be  
10                  revoked only with consent of the Secretary.

11                  “(F) APPLICABLE PLAN YEAR.—For pur-  
12                  poses of this paragraph, the term ‘applicable  
13                  plan year’ shall mean—

14                  “(i) except as provided in clauses (ii)  
15                  and (iii), any plan year beginning in 2009  
16                  or 2010,

17                  “(ii) in the case of a plan with a plan  
18                  year beginning after October 31 and before  
19                  January 1, any plan year beginning in  
20                  2008 or 2009, and

21                  “(iii) in the case of a plan for which  
22                  the valuation date is not the first day of  
23                  the plan year, any plan year beginning in  
24                  2008 or 2009.

25                  “(G) ACTIVE PLAN.—

1           “(i) IN GENERAL.—For purposes of  
2           this paragraph, the term ‘active plan’  
3           means a defined benefit plan that is de-  
4           scribed in clause (ii), (iii), or (iv). A de-  
5           fined benefit plan may satisfy different  
6           clauses in different years. Notwithstanding  
7           clause (ii), (iii), or (iv), a defined benefit  
8           plan is not an active plan if an election  
9           under section 402(a)(1) of the Pension  
10          Protection Act of 2006 is in effect with re-  
11          spect to such plan, or if the plan is de-  
12          scribed under rules prescribed by the Sec-  
13          retary designed to prevent evasion of the  
14          purposes of this subparagraph.

15          “(ii) DEFINED BENEFIT PLAN.—

16                 “(I) IN GENERAL.—A defined  
17                 benefit plan is described in this clause  
18                 if minimum benefit accruals are pro-  
19                 vided on behalf of all employees who  
20                 have satisfied the plan’s age and serv-  
21                 ice requirements and who would, but  
22                 for any prior amendment ceasing ac-  
23                 cruals, be eligible for an accrual under  
24                 the plan.

1                   “(II) SPECIAL RULE REGARDING  
2                   MINIMUM BENEFIT ACCRUALS.—For  
3                   purposes of this clause, the employees  
4                   described in this clause shall be treat-  
5                   ed as receiving minimum benefit ac-  
6                   cruals for a plan year if all such em-  
7                   ployees are accruing a benefit and—

8                   “(aa) the rate of benefit ac-  
9                   cruel for any such employee is  
10                  not less than the greater of—

11                  “(AA) the rate of ben-  
12                  efit accrual that would have  
13                  been applied to the employee  
14                  under the benefit formula in  
15                  effect on July 1, 2009, dis-  
16                  regarding any amendments  
17                  to the plan adopted after  
18                  June 30, 2009, or

19                  “(BB) the rate of ben-  
20                  efit accrual that would have  
21                  applied to the employee  
22                  under the benefit formula in  
23                  effect as of the last date  
24                  prior to the effective date of  
25                  any plan amendment adopt-

1 ed prior to July 1, 2009,  
2 that ceased providing benefit  
3 accruals based on additional  
4 service credit with respect to  
5 such employee, or

6 “(bb) the target normal cost  
7 (without regard to plan adminis-  
8 trative expenses) for such plan  
9 year with respect to such employ-  
10 ees is at least 3 percent of the  
11 aggregate compensation (as de-  
12 fined in section 415(c)(3)) of  
13 such employees for such plan  
14 year.

15 Solely for purposes of this paragraph,  
16 target normal cost shall be determined  
17 by using 5 percent in lieu of the inter-  
18 est rate applicable under subsection  
19 (h) and by using the mortality tables  
20 described in subsection (h)(3)(A).

21 “(iii) DEFINED CONTRIBUTION

22 PLAN.—

23 “(I) IN GENERAL.—A defined  
24 benefit plan is described in this clause  
25 if—

1           “(aa) the defined benefit  
2 plan satisfies clause (ii) except  
3 with respect to employees whose  
4 failure to accrue a minimum ben-  
5 efit is attributable to a plan  
6 amendment adopted prior to July  
7 1, 2009, and

8           “(bb) the plan sponsor (or  
9 any member of such sponsor’s  
10 controlled group) maintains a de-  
11 fined contribution plan under  
12 which allocations are made on be-  
13 half of each employee whose fail-  
14 ure to accrue a benefit under the  
15 defined benefit plan causes the  
16 defined benefit plan not to be de-  
17 scribed in clause (ii).

18           “(II) MINIMUM ALLOCATIONS.—  
19 Such allocations shall not be less than  
20 3 percent of an employee’s compensa-  
21 tion (as determined in accordance  
22 with section 414(s)). A defined con-  
23 tribution plan shall not fail to satisfy  
24 the requirements of this clause solely  
25 by reason of the failure to make allo-

1 cations on behalf of one or more high-  
2 ly compensated employees (as defined  
3 in section 414(q)).

4 “(III) ALLOCATIONS TAKEN INTO  
5 ACCOUNT.—For purposes of this  
6 clause, only the following types of al-  
7 locations may be taken into account:

8 “(aa) Employer contribu-  
9 tions or forfeitures allocated  
10 without regard to whether an em-  
11 ployee makes an elective con-  
12 tribution or an employee con-  
13 tribution.

14 “(bb) In the case of the first  
15 plan year ending after June 30,  
16 2009, matching contributions (as  
17 defined in section 401(m)(4)(A)).

18 “(iv) NONQUALIFIED PLAN.—

19 “(I) IN GENERAL.—A defined  
20 benefit plan is described in this clause  
21 if no key employee (as defined in sec-  
22 tion 416(i) without regard to para-  
23 graph (5) thereof) accrues any new  
24 benefits for the plan year under any  
25 nonqualified deferred compensation

1 plan (as defined in section 409A(d))  
2 maintained by the sponsor of the de-  
3 fined benefit plan or by any member  
4 of such sponsor's controlled group.

5 “(II) REVOCATION OF CERTAIN  
6 ELECTIONS.—The Secretary shall pro-  
7 vide rules under section 409A under  
8 which elections to defer compensation  
9 made prior to the date of enactment  
10 of this clause may be revoked by an  
11 employee within 180 days after the  
12 date of enactment of this clause, but  
13 only to the extent that, pursuant to  
14 this clause, such elections could other-  
15 wise cause a failure of the employee  
16 to—

17 “(aa) earn compensation  
18 under an arrangement that, but  
19 for the election, is not a non-  
20 qualified deferred compensation  
21 plan (as defined in section  
22 409A(d)), and

23 “(bb) earn compensation  
24 that is not payable to the em-

1                   employee in another form or under  
2                   a different arrangement.

3                   “(v) MULTIPLE EMPLOYER PLANS.—

4                   In the case of a defined benefit plan de-  
5                   scribed in section 413(c)(4)(B), such plan  
6                   shall be treated as an active plan if such  
7                   plan satisfies clause (ii), (iii), or (iv) with  
8                   respect to at least 85 percent of the em-  
9                   ployers participating in such plan. In ap-  
10                  plying the 85 percent requirement, dif-  
11                  ferent employers may satisfy different  
12                  clauses.

13                  “(vi) CONTROLLED GROUP.—For pur-  
14                  poses of this paragraph, the term ‘con-  
15                  trolled group’ means all employers treated  
16                  as a single employer pursuant to sub-  
17                  sections (b) and (c) of section 414.”.

18                  (2) CONFORMING AMENDMENT.—Paragraph (1)  
19                  of section 430(c) of such Code is amended by strik-  
20                  ing “the shortfall amortization bases for such plan  
21                  year and each of the 6 preceding plan years” and in-  
22                  serting “any shortfall amortization base which has  
23                  not been fully amortized under this subsection”.



1           (3) AMENDMENT TO SECTION 409A.—Paragraph  
2           (3) of section 409A(a) of the Internal Revenue Code  
3           of 1986 is amended to read as follows:

4           “(3) ACCELERATION OF BENEFITS.—

5                   “(A) IN GENERAL.—The requirements of  
6           this paragraph are met if the plan does not per-  
7           mit the acceleration of the time or schedule of  
8           any payment under the plan, except as provided  
9           in regulations by the Secretary. The require-  
10          ments of this paragraph shall not be treated as  
11          satisfied if the plan makes any payment de-  
12          scribed in subparagraph (B) or (C).

13                   “(B) EXCESS PAYMENTS FOR CERTAIN AD-  
14          JUSTED FUNDING TARGET ATTAINMENT PER-  
15          CENTAGES BY ACTIVE PLAN.—A payment is de-  
16          scribed in this subparagraph if—

17                           “(i) such payment is made during a  
18                          year in which a defined benefit plan main-  
19                          tained by the employer sponsoring a non-  
20                          qualified deferred compensation plan is re-  
21                          quired to be an active plan under section  
22                          430(c)(2)(E) or section 107(e) of the Pen-  
23                          sion Protection Act of 2006, and such de-  
24                          fined benefit plan has not otherwise failed

1 to be an active plan in such plan year or  
2 any prior plan year,

3 “(ii) such defined benefit plan is not  
4 described in clause (ii) or (iii) of section  
5 430(c)(2)(G) (modified, if applicable by  
6 section 107(f)(5) of the Pension Protection  
7 Act of 2006),

8 “(iii) such defined benefit plan is de-  
9 scribed in paragraph (1) or (3) of section  
10 436(d)(or would be if section 430(g)(3)(C)  
11 did not apply), and

12 “(iv) the nonqualified deferred com-  
13 pensation plan makes any payment in ex-  
14 cess of the amounts that would be per-  
15 mitted if the requirements of such para-  
16 graph (1) or (3), as applicable, applied to  
17 such plan.

18 In the case of a defined benefit plan to which  
19 section 107 of the Pension Protection Act of  
20 2006 applies, clauses (iii) and (iv) shall apply  
21 based on rules similar to the rules of section  
22 436, as prescribed by the Secretary, except that  
23 the parenthetical regarding section  
24 430(g)(3)(C) shall not apply. Under rules pre-  
25 scribed by the Secretary, a plan shall not fail to

1 satisfy the requirements of this subsection sole-  
2 ly by reason of a modification with respect to  
3 the time and form of distribution that is con-  
4 sistent with the requirements of this subpara-  
5 graph.

6 “(C) EXCESS PAYMENTS BY REASON OF  
7 CERTAIN INTEREST RATES AND MORTALITY AS-  
8 SUMPTIONS.—A payment is described in this  
9 subparagraph if—

10 “(i) the requirements of clauses (i)  
11 and (ii) of subparagraph (B) are satisfied,  
12 and

13 “(ii) the nonqualified deferred com-  
14 pensation plan makes any payment in ex-  
15 cess of the amount that would be payable  
16 if such plan used the interest rate and  
17 mortality assumptions from the defined  
18 benefit plan described in section 401(a)  
19 that would create the smallest payments,  
20 determined on a present value basis using  
21 the interest rate and mortality assump-  
22 tions described in section 430(h).

23 For purposes of this subparagraph, all defined  
24 benefit plans maintained by the employer shall  
25 be taken into account.”.

1       (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to plan years beginning after De-  
3 cember 31, 2007.

4       **SEC. 102. EXPANSION OF CORRIDOR WITHIN WHICH SIN-**  
5                               **GLE-EMPLOYER DEFINED BENEFIT PLANS**  
6                               **ARE ALLOWED TO AVERAGE ASSET VALUES.**

7       (a) AMENDMENT TO ERISA.—Paragraph (3) of sec-  
8 tion 303(g) of the Employee Retirement Income Security  
9 Act of 1974 is amended by adding at the end the following  
10 new subparagraphs:

11                       “(C) SPECIAL RULE.—In the case of any  
12                       applicable plan year, subparagraph (B)(iii) shall  
13                       be applied—

14                               “(i) by substituting ‘80 percent’ for  
15                               ‘90 percent’, and

16                               “(ii) by substituting ‘120 percent’ for  
17                               ‘110 percent’.

18                       “(D) APPLICABLE PLAN YEAR.—For pur-  
19                       poses of this paragraph, the term ‘applicable  
20                       plan year’ means—

21                               “(i) except as provided in clauses (ii)  
22                               and (iii), any plan year beginning in 2009  
23                               or 2010,

24                               “(ii) in the case of a plan with a plan  
25                               year beginning after October 31 and before

1           January 1, any plan year beginning in  
2           2008 or 2009, and  
3           “(iii) in the case of a plan for which  
4           the valuation date is not the first day of  
5           the plan year, any plan year beginning in  
6           2008 or 2009.”.

7           (b) AMENDMENT TO INTERNAL REVENUE  
8 CODE OF 1986.—Paragraph (3) of section 430(g) of the  
9 Internal Revenue Code of 1986 is amended by adding at  
10 the end the following new subparagraphs:

11           “(C) SPECIAL RULE.—In the case of any  
12           applicable plan year, subparagraph (B)(iii) shall  
13           be applied—

14           “(i) by substituting ‘80 percent’ for  
15           ‘90 percent’, and

16           “(ii) by substituting ‘120 percent’ for  
17           ‘110 percent’.

18           “(D) APPLICABLE PLAN YEAR.—For pur-  
19           poses of this paragraph, the term ‘applicable  
20           plan year’ means—

21           “(i) except as provided in clauses (ii)  
22           and (iii), any plan year beginning in 2009  
23           or 2010,

24           “(ii) in the case of a plan with a plan  
25           year beginning after October 31 and before

1           January 1, any plan year beginning in  
2           2008 or 2009, and  
3           “(iii) in the case of a plan for which  
4           the valuation date is not the first day of  
5           the plan year, any plan year beginning in  
6           2008 or 2009.”.

7       (c) EFFECTIVE DATE.—The amendments made by  
8 this section shall apply to plan years beginning after De-  
9 cember 31, 2007.

10 **SEC. 103. LOOKBACK FOR BENEFIT ACCRUAL RESTRIC-**  
11 **TION.**

12       (a) AMENDMENT TO ERISA.—Subsection (g) of sec-  
13 tion 206 of the Employee Retirement Income Security Act  
14 of 1974 is amended by adding at the end thereof the fol-  
15 lowing:

16           “(12) SPECIAL RULE FOR CERTAIN YEARS.—  
17       For purposes of paragraph (4) only—

18           “(A) IN GENERAL.—For plan years begin-  
19       ning after October 31, 2008, and before No-  
20       vember 1, 2010, the adjusted funding target at-  
21       tainment percentage of a plan for purposes of  
22       paragraph (4) shall be the greater of—

23           “(i) such percentage, as determined  
24       without regard to this paragraph, or

1 “(ii) the adjusted funding target at-  
2 tainment percentage for such plan for the  
3 plan year beginning after October 31,  
4 2007, and before November 1, 2008, as  
5 determined under rules prescribed by the  
6 Secretary of the Treasury.

7 “(B) SPECIAL RULE.—In the case of a  
8 plan for which the valuation date is not the  
9 first day of the plan year—

10 “(i) subparagraph (A) shall apply to  
11 plan years beginning after December 31,  
12 2007, and before January 1, 2010, and

13 “(ii) subparagraph (A)(ii) shall apply  
14 based on the last plan year beginning be-  
15 fore November 1, 2007, as determined  
16 under rules prescribed by the Secretary of  
17 the Treasury.”.

18 (b) AMENDMENT TO INTERNAL REVENUE  
19 CODE OF 1986.—Section 436 of the Internal Revenue  
20 Code of 1986 is amended by adding the following at the  
21 end thereof:

22 “(n) SPECIAL RULE FOR CERTAIN YEARS.—For pur-  
23 poses of subsection (e) only—

24 “(1) IN GENERAL.—For plan years beginning  
25 after October 31, 2008, and before November 1,

1       2010, the adjusted funding target attainment per-  
2       centage of a plan for purposes of subsection (e) shall  
3       be the greater of—

4               “(A) such percentage, as determined with-  
5       out regard to this subsection, or

6               “(B) the adjusted funding target attain-  
7       ment percentage for such plan for the plan year  
8       beginning after October 31, 2007, and before  
9       November 1, 2008, as determined under rules  
10      prescribed by the Secretary.

11       “(2) SPECIAL RULE.—In the case of a plan for  
12      which the valuation date is not the first day of the  
13      plan year—

14              “(A) paragraph (1) shall apply to plan  
15      years beginning after December 31, 2007, and  
16      before January 1, 2010, and

17              “(B) paragraph (1)(B) shall apply based  
18      on the last plan year beginning before Novem-  
19      ber 1, 2007, as determined under rules pre-  
20      scribed by the Secretary.”.

21      (c) INTERACTION WITH WRERA RULE.—Section  
22      203 or the Worker, Retiree, and Employer Recovery Act  
23      of 2008 shall apply to a plan for any plan year in lieu  
24      of the amendments made by this section only to the extent  
25      that such section produces a higher adjusted funding tar-



1 get attainment percentage for such plan for such year. In  
2 all other cases, such section shall not be applicable to any  
3 plan.

4 (d) EFFECTIVE DATE.—

5 (1) IN GENERAL.—Except as provided in para-  
6 graph (2), the amendments made by this section  
7 shall apply to plan years beginning after October 31,  
8 2008.

9 (2) SPECIAL RULE.—In the case of a plan for  
10 which the valuation date is not the first day of the  
11 plan year, the amendments made by this section  
12 shall apply to plan years beginning after December  
13 31, 2007.

14 **SEC. 104. LOOKBACK FOR CREDIT BALANCE RULE.**

15 (a) AMENDMENT TO ERISA.—Paragraph (3) of sec-  
16 tion 303(f) of the Employee Retirement Income Security  
17 Act of 1974 is amended by adding the following at the  
18 end thereof:

19 “(D) SPECIAL RULE FOR CERTAIN  
20 YEARS.—

21 “(i) IN GENERAL.—For purposes of  
22 applying subparagraph (C) for plan years  
23 beginning after October 31, 2009, and be-  
24 fore November 1, 2011, the ratio deter-  
25 mined under such subparagraph for the

1 preceding plan year shall be the greater  
2 of—

3 “(I) such ratio, as determined  
4 without regard to this subparagraph,  
5 or

6 “(II) the ratio for such plan for  
7 the plan year beginning after October  
8 31, 2007, and before November 1,  
9 2008, as determined under rules pre-  
10 scribed by the Secretary of the Treas-  
11 ury.

12 “(ii) SPECIAL RULE.—In the case of a  
13 plan for which the valuation date is not the  
14 first day of the plan year—

15 “(I) clause (i) shall apply to plan  
16 years beginning after December 31,  
17 2008, and before January 1, 2011,  
18 and

19 “(II) clause (i)(II) shall apply  
20 based on the last plan year beginning  
21 before November 1, 2007, as deter-  
22 mined under rules prescribed by the  
23 Secretary of the Treasury.”.

24 (b) AMENDMENT TO INTERNAL REVENUE  
25 CODE OF 1986.—Paragraph (3) of section 430(f) of the

1 Internal Revenue Code of 1986 is amended by adding the  
2 following at the end thereof:

3 “(D) SPECIAL RULE FOR CERTAIN  
4 YEARS.—

5 “(i) IN GENERAL.—For purposes of  
6 applying subparagraph (C) for plan years  
7 beginning after October 31, 2009, and be-  
8 fore November 1, 2011, the ratio deter-  
9 mined under such subparagraph for the  
10 preceding plan year of a plan shall be the  
11 greater of—

12 “(I) such ratio, as determined  
13 without regard to this subsection, or

14 “(II) the ratio for such plan for  
15 the plan year beginning after October  
16 31, 2007 and before November 1,  
17 2008, as determined under rules pre-  
18 scribed by the Secretary.

19 “(ii) SPECIAL RULE.—In the case of a  
20 plan for which the valuation date is not the  
21 first day of the plan year—

22 “(I) clause (i) shall apply to plan  
23 years beginning after December 31,  
24 2007, and before January 1, 2010,  
25 and

1 “(II) clause (i)(II) shall apply  
2 based on the last plan year beginning  
3 before November 1, 2007, as deter-  
4 mined under rules prescribed by the  
5 Secretary.”.

6 (c) EFFECTIVE DATE.—

7 (1) IN GENERAL.—Except as provided in para-  
8 graph (2), the amendments made by this section  
9 shall apply to plan years beginning after October 31,  
10 2009.

11 (2) SPECIAL RULE.—In the case of a plan for  
12 which the valuation date is not the first day of the  
13 plan year, the amendments made by this section  
14 shall apply to plan years beginning after December  
15 31, 2008.

16 **SEC. 105. CLARIFICATION OF TREATMENT OF EXPENSES.**

17 (a) AMENDMENTS TO ERISA.—

18 (1) IN GENERAL.—Clause (ii) of section  
19 303(b)(1)(A) of the Employee Retirement Income  
20 Security Act of 1974 is amended by striking “plan-  
21 related expenses” and inserting “plan-related admin-  
22 istrative expenses”.

23 (2) CONFORMING AMENDMENT.—Subclause (II)  
24 of section 303(i)(2)(A)(i) of such Act is amended by

1 striking “plan-related expenses” and inserting  
2 “plan-related administrative expenses”.

3 (b) AMENDMENTS TO INTERNAL REVENUE  
4 CODE OF 1986.—

5 (1) IN GENERAL.—Clause (ii) of section  
6 430(b)(1)(A) of the Internal Revenue Code of 1986  
7 is amended by striking “plan-related expenses” and  
8 inserting “plan-related administrative expenses”.

9 (2) CONFORMING AMENDMENT.—Subclause (II)  
10 of section 430(i)(2)(A)(i) of such Code is amended  
11 by striking “plan-related expenses” and inserting  
12 “plan-related administrative expenses”.

13 (c) EFFECTIVE DATE.—The amendments made by  
14 this section shall take effect as if included in paragraphs  
15 (1)(A), (1)(F)(i), (2)(A), and (2)(F)(i) of section 101(b)  
16 of the Worker, Retiree, and Employer Recovery Act of  
17 2008.

18 **SEC. 106. INFORMATION REPORTING.**

19 (a) IN GENERAL.—Paragraph (1) of section 4010(b)  
20 of the Employee Retirement Security Act of 1974 is  
21 amended by striking “80” and inserting “90”.

22 (b) FUNDING TARGET ATTAINMENT PERCENTAGE.—  
23 Subparagraph (B) of section 4010(d)(2) of such Act is  
24 amended by striking “303(d)(2).” and inserting

1 “303(d)(2), without regard to the reduction under section  
2 303(f)(4)(B).”.

3 (c) CONFIDENTIALITY.—Subsection (c) of section  
4 4010 of such Act is amended—

5 (1) by striking “and no such information or  
6 documentary material may be made public,” and

7 (2) by adding at the end the following: “All  
8 parties, governmental or otherwise, receiving the in-  
9 formation (or summary report of such information)  
10 required to be provided under this section shall be  
11 required to—

12 “(1) ensure that the information received will  
13 be kept confidential,

14 “(2) use the information only for the purpose  
15 for which it was requested, and

16 “(3) not further disclose the information except  
17 to accomplish that purpose, unless a separate con-  
18 sent from the taxpayer is obtained.

19 Such requirements shall not apply to information provided  
20 under this section that is otherwise publicly available. The  
21 corporation shall notify each person providing information  
22 under this section of any public disclosure of such infor-  
23 mation not permitted by this subsection within a reason-  
24 able time of such disclosure becoming known to the cor-  
25 poration. If any party, governmental or otherwise, makes

1 an unauthorized disclosure, the person required to provide  
2 such information under this section may bring suit against  
3 such party in Federal district court. No liability results  
4 from a disclosure based upon a good faith, but erroneous,  
5 interpretation of this section. Upon a finding of a liability,  
6 such person can recover an amount not to exceed  
7 \$100,000 per act of unauthorized disclosure plus reason-  
8 able attorney fees. The person shall have two years from  
9 the date of discovery of the unauthorized disclosure to  
10 bring suit.”.

11 (d) EFFECTIVE DATE.—

12 (1) IN GENERAL.—Except as provided in para-  
13 graph (2), the amendments made by this section  
14 shall apply to plan years beginning after December  
15 31, 2009.

16 (2) CONFIDENTIALITY.—The amendment made  
17 by subsection (c) shall take effect on the date of the  
18 enactment of this Act.

19 **SEC. 107. BENEFIT RESTRICTION EFFECTIVE DATE FOR**  
20 **COLLECTIVELY BARGAINED PLANS.**

21 (a) AMENDMENTS WITH RESPECT TO ERISA.—

22 (1) PLAN AMENDMENTS.—Paragraph (2) of  
23 section 103(c) of the Pension Protection Act of 2006  
24 is amended—

1 (A) by striking “In the case” and inserting  
2 “Except as provided in paragraph (3), in the  
3 case”, and

4 (B) by striking “the amendments made by  
5 this section” and inserting “section 206(g)(2)  
6 of the Employee Retirement Income Security  
7 Act of 1974 (and other provisions of such sec-  
8 tion 206(g) to the extent that they apply to  
9 such section 206(g)(2)), as added by this sec-  
10 tion,”.

11 (2) OTHER BENEFIT RESTRICTIONS.—

12 (A) IN GENERAL.—Subsection (c) of sec-  
13 tion 103 of the Pension Protection Act of 2006  
14 is amended by adding at the end thereof the  
15 following:

16 “(3) COLLECTIVE BARGAINING DELAY EXCEPT  
17 REGARDING CERTAIN PLAN AMENDMENTS.—

18 “(A) IN GENERAL.—In the case of a plan  
19 maintained pursuant to 1 or more collective  
20 bargaining agreements between employee rep-  
21 resentatives and 1 or more employers, the  
22 amendments made by this section shall apply to  
23 plan years beginning after December 31, 2011,  
24 except that paragraph (2) shall apply to plan  
25 amendments made pursuant to a collective bar-



1           gaining agreement ratified after the date of in-  
2           troduction of the Preserve Benefits and Jobs  
3           Act of 2009.

4           “(B) TRANSITION RULE.—

5                   “(i) In the case of a plan described in  
6                   clause (ii), such plan shall not be required  
7                   to comply with this section and the amend-  
8                   ments made by this section until the date  
9                   that is 60 days after the date of the enact-  
10                  ment of this paragraph, but such a plan  
11                  may comply on any otherwise permitted  
12                  earlier date.

13                  “(ii) A plan is described in this clause  
14                  if a limit on benefits or benefit accruals  
15                  has been or is, pursuant to section 206(g)  
16                  of the Employee Retirement Income Secu-  
17                  rity Act of 1974 and section 436 of the In-  
18                  ternal Revenue Code of 1986, in effect  
19                  with respect to such plan as of the date of  
20                  the enactment of this paragraph.”.

21           (3) CONFORMING AMENDMENT.—The heading  
22           of paragraph (2) of section 103(c) of the Pension  
23           Protection Act of 2006 is amended to read as fol-  
24           lows: “COLLECTIVE BARGAINING EXCEPTION RE-  
25           GARDING CERTAIN PLAN AMENDMENTS”.

1 (b) AMENDMENTS WITH RESPECT TO INTERNAL  
2 REVENUE CODE OF 1986.—

3 (1) PLAN AMENDMENTS.—Paragraph (2) of  
4 section 113(b) of the Pension Protection Act of  
5 2006 is amended by—

6 (A) striking “In the case” and inserting  
7 “Except as provided in paragraph (3), in the  
8 case”, and

9 (B) striking “the amendments made by  
10 this section” and inserting “section 436(c) of  
11 the Internal Revenue Code of 1986 (and other  
12 provisions such section 436 to the extent that  
13 they apply to such section 436(c)), as added by  
14 this section,”.

15 (2) OTHER BENEFIT RESTRICTIONS.—

16 (A) IN GENERAL.—Subsection (b) of sec-  
17 tion 113 of the Pension Protection Act of 2006  
18 is amended by adding at the end thereof the  
19 following:

20 “(3) COLLECTIVE BARGAINING DELAY EXCEPT  
21 REGARDING CERTAIN PLAN AMENDMENTS.—

22 “(A) IN GENERAL.—In the case of a plan  
23 maintained pursuant to 1 or more collective  
24 bargaining agreements between employee rep-  
25 resentatives and 1 or more employers, the

1 amendments made by this section shall apply to  
2 plan years beginning after December 31, 2011,  
3 except that paragraph (2) shall apply to plan  
4 amendments made pursuant to a collective bar-  
5 gaining agreement ratified after the date of in-  
6 troduction of the Preserve Benefits and Jobs  
7 Act of 2009.

8 “(B) TRANSITION RULE.—

9 “(i) In the case of a plan described in  
10 clause (ii), a plan shall not be required to  
11 comply with this section and the amend-  
12 ments made by this section until the date  
13 that is 60 days after the date of the enact-  
14 ment of this paragraph, but such a plan  
15 may comply on any otherwise permitted  
16 earlier date.

17 “(ii) A plan is described in this clause  
18 if a limit on benefits or benefit accruals  
19 has been or is, pursuant to section 206(g)  
20 of the Employee Retirement Income Secu-  
21 rity Act of 1974 and section 436 of the In-  
22 ternal Revenue Code of 1986, in effect  
23 with respect to such plan as of the date of  
24 the enactment of this paragraph.”.

1           (3) CONFORMING AMENDMENT.—The heading  
2           of paragraph (2) of section 103(b) of the Pension  
3           Protection Act of 2006 is amended to read as fol-  
4           lows: “COLLECTIVE BARGAINING EXCEPTION RE-  
5           GARDING CERTAIN PLAN AMENDMENTS”.

6           (c) EFFECTIVE DATE.—Except as provided in the  
7           amendments made by this section, the amendments made  
8           by this section shall apply as if included in sections 103(c)  
9           and 113(b) of such Act.

10   **SEC. 108. SOCIAL SECURITY LEVEL-INCOME OPTIONS.**

11           (a) AMENDMENT TO ERISA.—Subparagraph (E) of  
12           section 206(g)(3) of the Employee Retirement Income Se-  
13           curity Act of 1974 is amended by adding at the end there-  
14           of the following:

15           “For purposes of this paragraph, any stream of pay-  
16           ments that is structured to be similar in amount and  
17           duration to social security supplements described in  
18           the last sentence of section 204(b)(1)(G) shall be  
19           treated in the same manner as such supplements.”.

20           (b) AMENDMENT TO INTERNAL REVENUE  
21           CODE OF 1986.—Paragraph (5) of section 436(d) of the  
22           Internal Revenue Code of 1986 is amended by adding at  
23           the end thereof the following:

24           “For purposes of this subsection, any stream of payments  
25           that is structured to be similar in amount and duration

1 to social security supplements described in the last sen-  
2 tence of section 411(a)(9) shall be treated in the same  
3 manner as such supplements.”.

4 (c) EFFECTIVE DATE.—

5 (1) IN GENERAL.—Except as provided in para-  
6 graph (2), the amendments made by this section  
7 shall apply as if included in sections 103(a) and  
8 113(a)(1) of the Pension Protection Act of 2006.

9 (2) TRANSITION RULE.—

10 (A) In the case of a plan described in sub-  
11 paragraph (B), a plan shall not be required to  
12 comply with the amendments made by this sec-  
13 tion until the date that is 60 days after the  
14 date of enactment of this Act, but such a plan  
15 may comply on any otherwise permitted earlier  
16 date.

17 (B) A plan is described in this subpara-  
18 graph (B) if a limit on prohibited payments is  
19 or has been, pursuant to section 206(g) of the  
20 Employee Retirement Income Security Act of  
21 1974 and section 436 of the Internal Revenue  
22 Code of 1986, in effect with respect to such  
23 plan as of the date of enactment of this Act.

1   **SEC. 109. PBGC GUARANTEE.**

2           (a) GUARANTEE.—Section 4022 of the Employee re-  
3   tirement Income Security Act of 1974 is amended by  
4   striking subsection (g).

5           (b) ALLOCATION OF ASSETS AMONG PRIORITY  
6   GROUPS.—Section 4044 of such Act is amended by strik-  
7   ing subsection (e).

8           (c) EFFECTIVE DATE.—The amendments made by  
9   this section shall be as if included in section 404 of the  
10   Pension Protection Act of 2006, except that such amend-  
11   ments shall not apply to proceedings initiated under title  
12   11, United States Code, or under any similar Federal law  
13   or law of a State or political subdivision, on or before the  
14   date of enactment of this Act.

15   **SEC. 110. APPLICATION OF EXTENDED AMORTIZATION PE-**  
16                           **RIOD TO PLANS SUBJECT TO PRIOR LAW**  
17                           **FUNDING RULES.**

18           (a) IN GENERAL.—Title I of the Pension Protection  
19   Act of 2006 is amended by redesignating section 107 as  
20   section 108 and by inserting the following after section  
21   106:

22   **“SEC. 107. APPLICATION OF EXTENDED AMORTIZATION PE-**  
23                           **RIODS TO PLANS WITH DELAYED EFFECTIVE**  
24                           **DATE.**

25           “(a) IN GENERAL.—In the case of plans to which sec-  
26   tion 104, 105, or 106 of this Act apply, section 302 of

1 the Employee Retirement Income Security Act of 1974  
2 and section 412 of the Internal Revenue Code of 1986  
3 (as in effect before the amendments made by this subtitle  
4 and subtitle B) shall apply in the manner described in this  
5 section. All references in this section to ‘such Act’ or ‘such  
6 Code’ shall be to such Act or such Code as in effect before  
7 the amendments made by this subtitle and subtitle B.

8 “(b) APPLICATION OF 2 AND 7 RULE.—

9 “(1) IN GENERAL.—In the case of an active  
10 plan to which this subsection applies, section 302 of  
11 such Act and section 412 of such Code shall apply  
12 in the manner described in this subsection.

13 “(2) TWO YEAR SUSPENSION OF DEFICIT RE-  
14 Duction CONTRIBUTIONS FOR CERTAIN PLANS.—  
15 For purposes of applying section 302(d)(9) of such  
16 Act and section 412(l)(9) of such Code to a plan de-  
17 scribed in paragraph (1), the funded current liability  
18 percentage for such plan for any applicable plan  
19 year shall be the funded current liability percentage  
20 of such plan for the pre-applicable plan year.

21 “(3) CALCULATION OF DEFICIT REDUCTION  
22 CONTRIBUTION.—For purposes of applying section  
23 302(d) of such Act and section 412(l) of such Code  
24 to a plan to which such subsections apply (after tak-  
25 ing into account paragraph (2)), the applicable per-

1       centage described in section 302(d)(4)(C) of such  
2       Act and section 412(l)(4)(C) of such Code shall be  
3       the third segment rate described in sections 104(b),  
4       105(b), and 106(b) of this Act, provided that such  
5       applicable percentage shall only apply to the in-  
6       creased unfunded new liability. The applicable per-  
7       centage determined without regard to this section  
8       shall apply to the excess of the unfunded new liabil-  
9       ity over the increased unfunded new liability.

10      “(c) APPLICATION OF 15-YEAR AMORTIZATION.—

11           “(1) IN GENERAL.—In the case of an active  
12       plan to which this subsection applies, section 302 of  
13       such Act and section 412 of such Code shall apply  
14       in the manner described in this subsection.

15           “(2) CALCULATION OF DEFICIT REDUCTION  
16       CONTRIBUTION.—For purposes of applying section  
17       302(d) of such Act and section 412(l) of such Code  
18       to a plan described in paragraph (1), the applicable  
19       percentage described in section 302(d)(4)(C) of such  
20       Act and section 412(l)(4)(C) of such Code for any  
21       pre-effective date plan year shall be the ratio of—

22           “(A) the annual installments payable in  
23       each year if the increased unfunded new liabil-  
24       ity for such plan year were amortized over 15  
25       years, using an interest rate equal to the third



1           segment rate described in sections 104(b),  
2           105(b), and 106(b) of this Act, to

3                   “(B) the increased unfunded new liability  
4           for such plan year.

5           However, such applicable percentage shall only apply  
6           to the increased unfunded new liability. The applica-  
7           ble percentage determined without regard to this  
8           section shall apply to the excess of the unfunded new  
9           liability over the increased unfunded new liability.

10          “(d) ELECTION.—The plan sponsor may, with re-  
11       spect to a plan, elect whether to apply subsection (b) or  
12       subsection (c) or whether neither subsection shall apply.  
13       Such election shall be made at such times, and in such  
14       form and manner, as shall be prescribed by the Secretary  
15       of the Treasury, and may be revoked only with the consent  
16       of the Secretary of the Treasury. In the absence of a time-  
17       ly election regarding which subsection shall apply to a  
18       plan, neither subsection shall apply to such plan.

19          “(e) FAILURE TO MAINTAIN ACTIVE PLAN.—If the  
20       minimum contribution required for a plan to avoid an ac-  
21       cumulated funding deficiency under section 302 of such  
22       Act and section 412 of such Code is determined under  
23       subsection (b) or (c) for a plan year, the plan must remain  
24       an active plan for the subsequent plan year. If such plan  
25       fails to be an active plan in such plan year, the minimum

1 contribution requirement to avoid an accumulated funding  
2 deficiency shall be increased by all amounts by which such  
3 minimum contribution was reduced by the application of  
4 subsection (b) or (c), plus interest on such amounts at  
5 the third segment rate described in sections 104(b),  
6 105(b), and 106(b) of this Act. However, any such in-  
7 crease in such minimum contribution shall not require a  
8 contribution to the extent that the contribution would  
9 cause the value of plan assets (determined under section  
10 302(c)(2) of such Act and section 412(c)(2) of such Code)  
11 to exceed the current liability of such plan for such year.

12 “(f) DEFINITIONS.—

13 “(1) APPLICABLE PLAN YEAR.—For purposes  
14 of this section, the term ‘applicable plan year’  
15 means—

16 “(A) except as provided in subparagraphs  
17 (B), (C), and (D), any plan year beginning in  
18 2010 or 2011,

19 “(B) in the case of a plan with a plan year  
20 beginning after June 30 and before January 1,  
21 any plan year beginning in 2009 or 2010,

22 “(C) in the case of a plan for which the  
23 valuation date is not the first day of the plan  
24 year, any plan year beginning in 2009 or 2010,  
25 and

1           “(D) in the case of a plan to which section  
2           106 of the Pension Protection Act of 2006 ap-  
3           plies, subparagraphs (A), (B), and (C) shall be  
4           applied by inserting ‘2008’, ‘2009’, or ‘2010’  
5           for ‘2009’, ‘2010’, or ‘2011’, respectively, each  
6           place such year is referenced.

7           “(2) PRE-APPLICABLE PLAN YEAR.—For pur-  
8           poses of this section, the term ‘pre-applicable plan  
9           year’ means, with respect to a plan, the second plan  
10          year preceding the first applicable plan year of such  
11          plan, except that in the case of a plan described in  
12          paragraph (1)(D), such term means the first plan  
13          year preceding the first applicable plan year of such  
14          plan.

15          “(3) PRE-EFFECTIVE DATE PLAN YEAR.—For  
16          purposes of this section, the term ‘pre-effective date  
17          plan year’ means, with respect to a plan, any plan  
18          year prior to the first year in which the amendments  
19          made by this subtitle and subtitle B apply to the  
20          plan, provided that the first pre-effective date plan  
21          year shall be the first applicable plan year with re-  
22          spect to the plan.

23          “(4) INCREASED UNFUNDED NEW LIABILITY.—  
24          For purposes of this section, the term ‘increased un-  
25          funded new liability’ means, with respect to a year,

1 the excess (if any) of the unfunded new liability over  
2 the amount of unfunded new liability determined as  
3 if the value of the plan's assets determined under  
4 subsection 302(c)(2) of such Act and section  
5 412(c)(2) of such Code equaled the product of the  
6 current liability of the plan for the year multiplied  
7 by the funded current liability percentage of the plan  
8 for the pre-applicable plan year.

9 “(5) ACTIVE PLAN.—For purposes of this sec-  
10 tion, the term ‘active plan’ shall have the meaning  
11 given such term by section 303(c)(2)(G) of the Em-  
12 ployee Retirement Income Security Act of 1974 and  
13 in section 430(c)(2)(G) of the Internal Revenue  
14 Code of 1986, except that ‘target normal cost’ (with-  
15 out regard to plan administrative expenses) shall be  
16 determined as if section 303 of the Employee Retire-  
17 ment Income Security Act of 1974 and section 430  
18 of the Internal Revenue Code of 1986 applied to  
19 such plan with the modification regarding the inter-  
20 est rate used, as set forth in section 303(c)(2)(G) of  
21 the Employee Retirement Income Security Act of  
22 1974 and in section 430(c)(2)(G) of the Internal  
23 Revenue Code of 1986.

24 “(6) OTHER DEFINITIONS.—For purposes of  
25 this section, the terms ‘funded current liability per-

1       centage’, ‘unfunded new liability’, and ‘current liabil-  
2       ity’ shall have the meanings set forth in section  
3       302(d) of such Act and section 412(l) of such  
4       Code.”.

5       (b) ELIGIBLE CHARITY PLANS.—Section 104 of the  
6 Pension Protection Act of 2006 is amended by—

7           (1) striking “eligible cooperative plan” wherever  
8       it appears in subsections (a) and (b) and inserting  
9       “eligible cooperative plan or an eligible charity  
10      plan”, and

11          (2) adding at the end the following new sub-  
12      section:

13      “(d) ELIGIBLE CHARITY PLAN DEFINED.—For pur-  
14      poses of this section, a plan shall be treated as an eligible  
15      charity plan for a plan year if the plan is maintained by  
16      more than one employer and 100 percent of the employers  
17      are described in section 501(c)(3) of such Code.”.

18      (c) EFFECTIVE DATE.—

19          (1) IN GENERAL.—The amendment made by  
20      subsection (a) shall take effect as if included in the  
21      Pension Protection Act of 2006.

22          (2) ELIGIBLE CHARITY PLAN.—The amend-  
23      ments made by subsection (b) shall apply to plan  
24      years beginning after December 31, 2008.

1 **SEC. 111. ADDITIONS TO FUNDING-BASED LIMITS ON BENE-**  
2 **FITS AND BENEFITS ACCRUALS UNDER SIN-**  
3 **GLE-EMPLOYER PLANS.**

4 (a) AMENDMENTS TO INTERNAL REVENUE  
5 CODE OF 1986.—

6 (1) Subsection (c) of section 436 of the Internal  
7 Revenue Code of 1986 is amended by redesignating  
8 paragraph (3) as paragraph (4) and by inserting  
9 after paragraph (2) the following:

10 “(3) SPECIAL LIMITATIONS ON AD HOC AMEND-  
11 MENTS.—

12 “(A) IN GENERAL.—No ad hoc amendment  
13 to a defined benefit plan which is a single em-  
14 ployer plan which has the effect of increasing li-  
15 abilities of the plan by reason of increases in  
16 benefits, establishment of new benefits, chang-  
17 ing the rate of benefit accrual, or changing the  
18 rate of which benefits become nonforfeitable  
19 may take effect during the plan year if the ad-  
20 justed funding target attainment percentage for  
21 such plan year is—

22 “(i) less than 120 percent, or

23 “(ii) would be less than 120 percent  
24 taking into account such amendment.

25 “(B) EXEMPTION.—Subparagraph (A)  
26 shall cease to apply with respect to any plan

1           year, effective as of the first day of the plan  
2           year (or if later, the effective date of the  
3           amendment), upon payment by the plan sponsor  
4           of a contribution (in addition to any minimum  
5           required contribution under section 430) equal  
6           to—

7                   “(i) in the case of subparagraph  
8                   (A)(i), the amount of the increase in the  
9                   funding target of the plan (under section  
10                  430) for the plan year attributable to the  
11                  amendment, and

12                  “(ii) in the case of subparagraph  
13                  (A)(ii), the amount sufficient to result in  
14                  an adjusted funding target attainment per-  
15                  centage of 120 percent.

16                  “(C) SPECIAL RULE.—An ad hoc amend-  
17                  ment that is otherwise permitted to take effect  
18                  under this subsection may not take effect unless  
19                  the plan provides that the accrued pension ben-  
20                  efits of any participant or beneficiary under the  
21                  plan become nonforfeitable in the same manner  
22                  which would be required if the plan had termi-  
23                  nated as of the effective date of such ad hoc  
24                  amendment. This subparagraph shall not apply

1 to an ad hoc amendment that takes effect by  
2 reason of subparagraph (B)(i).

3 “(D) AD HOC AMENDMENT.—For purposes  
4 of this paragraph, the term ‘ad hoc amendment’  
5 means an amendment to a plan which—

6 “(i) increases the nonforfeitable bene-  
7 fits payable to one or more participants,

8 “(ii) applies only to a subset of the  
9 employees otherwise eligible to accrue ben-  
10 efits under the plan,

11 “(iii) applies by its terms only to em-  
12 ployees who, during a limited period of  
13 time, terminate employment, and

14 “(iv) provides that the increase de-  
15 scribed in clause (i) is payable in the form  
16 of a prohibited payment (as defined in sub-  
17 section (d)(5)).”.

18 (2) Paragraph (4) of section 436(c) of such  
19 Code, as redesignated by paragraph (1), is amend-  
20 ed—

21 (A) by inserting “(A)” before “Paragraph  
22 (1)” and moving the text thereof 2 ems to the  
23 right, and

24 (B) by adding at the end the following:



1           “(B) Paragraph (3) shall not apply to any  
2           amendment of a plan maintained pursuant to 1  
3           or more collective bargaining agreements be-  
4           tween employee representatives and 1 or more  
5           employers.”.

6           (b) AMENDMENTS TO ERISA.—

7           (1) Paragraph (2) of section 206(g) of the Em-  
8           ployee Retirement Income Security Act of 1974 is  
9           amended by redesignating subparagraph (C) as sub-  
10          paragraph (D) and by inserting after subparagraph  
11          (B) the following:

12                   “(C) SPECIAL LIMITATIONS ON AD HOC  
13                   AMENDMENTS.—

14                           “(i) IN GENERAL.—No ad hoc amend-  
15                           ment to a defined benefit plan which is a  
16                           single employer plan which has the effect  
17                           of increasing liabilities of the plan by rea-  
18                           son of increases in benefits, establishment  
19                           of new benefits, changing the rate of ben-  
20                           efit accrual, or changing the rate of which  
21                           benefits become nonforfeitable may take ef-  
22                           fect during the plan year if the adjusted  
23                           funding target attainment percentage for  
24                           such plan year is—

25                                   “(I) less than 120 percent, or

1                   “(II) would be less than 120 per-  
2                   cent taking into account such amend-  
3                   ment.

4                   “(ii) EXEMPTION.—Clause (i) shall  
5                   cease to apply with respect to any plan  
6                   year, effective as of the first day of the  
7                   plan year (or if later, the effective date of  
8                   the amendment), upon payment by the  
9                   plan sponsor of a contribution (in addition  
10                  to any minimum required contribution  
11                  under section 303) equal to—

12                  “(I) in the case of clause (i)(I),  
13                  the amount of the increase in the  
14                  funding target of the plan (under sec-  
15                  tion 303) for the plan year attrib-  
16                  utable to the amendment, and

17                  “(II) in the case of clause (i)(II),  
18                  the amount sufficient to result in an  
19                  adjusted funding target attainment  
20                  percentage of 120 percent.

21                  “(iii) SPECIAL RULE.—An ad hoc  
22                  amendment that is otherwise permitted to  
23                  take effect under this paragraph may not  
24                  take effect unless the plan provides that  
25                  the accrued pension benefits of any partici-

1           pant or beneficiary under the plan become  
2           nonforfeitable in the same manner which  
3           would be required if the plan had termi-  
4           nated as of the effective date of such ad  
5           hoc amendment. This subparagraph shall  
6           not apply to an ad hoc amendment that  
7           takes effect by reason of clause (ii)(I).

8           “(iv) AD HOC AMENDMENT.—For  
9           purposes of this subparagraph, the term  
10          ‘ad hoc amendment’ means an amendment  
11          to a plan which—

12               “(I) increases the nonforfeitable  
13               benefits payable to one or more par-  
14               ticipants,

15               “(II) applies only to a subset of  
16               the employees otherwise eligible to ac-  
17               crue benefits under the plan,

18               “(III) applies by its terms only to  
19               employees who, during a limited pe-  
20               riod of time, terminate employment,  
21               and

22               “(IV) provides that the increase  
23               described in subclause (I) is payable  
24               in the form of a prohibited payment  
25               (as defined in paragraph (3)(E)).”.

1           (2) Subparagraph (D) of section 202(g)(2) of  
2       such Act, as redesignated by paragraph (1), is  
3       amended—

4           (A) by inserting “(i)” before “Subpara-  
5       graph (A)” and moving the text thereof 2 ems  
6       to the right, and

7           (B) by adding at the end the following:

8           “(ii) Subparagraph (C) shall not  
9       apply to any amendment of a plan main-  
10      tained pursuant to 1 or more collective  
11      bargaining agreements between employee  
12      representatives and 1 or more employers.”.

13       (c) **EFFECTIVE DATE.**—The amendments made by  
14      this section shall apply to plan amendments adopted more  
15      than 180 days after the date of the enactment of this Act.

16      **SEC. 112. REPORTABLE EVENTS.**

17       (a) **IN GENERAL.**—Section 4043 of the Employee Re-  
18      tirement Income Security Act of 1974 is amended by re-  
19      designating subsection (f) as subsection (g) and by insert-  
20      ing after subsection (e) the following:

21       “(f) **SPECIAL RULE.**—

22       “(1) **IN GENERAL.**—A reportable event de-  
23      scribed in paragraph (3) of subsection (c) (without  
24      regard to this subsection) shall not be treated as oc-

1 curring with respect to a plan for an applicable plan  
2 year if—

3 “(A) the number of employees of the con-  
4 tributing sponsor is at least 80 percent of the  
5 number of employees of the contributing spon-  
6 sor at the beginning of the plan year, and is at  
7 least 75 percent of the number of employees of  
8 the contributing sponsor at the beginning of the  
9 previous plan year,

10 “(B) the funded vested benefit percentage  
11 (as defined for purposes of subsection  
12 (b)(1)(B)) for the pre-applicable plan year was  
13 at least 80 percent, and

14 “(C) the contributing sponsor notifies the  
15 corporation of the use of the rule described in  
16 this subsection by the date that such contrib-  
17 uting sponsor would (but for this subsection) be  
18 required to notify the corporation of an event  
19 described in subsection (c)(3).

20 “(2) DEFINITIONS.—For purposes of this sub-  
21 section—

22 “(A) EMPLOYEE.—The term ‘employee’  
23 means, in connection with a contributing spon-  
24 sor, an employee of the contributing sponsor or

1 of any member of such sponsor's controlled  
2 group.

3 “(B) APPLICABLE PLAN YEAR.—The term  
4 ‘applicable plan year’ means—

5 “(i) except as provided in this sub-  
6 paragraph, any plan year beginning in  
7 2010 or 2011,

8 “(ii) in the case of a plan with a plan  
9 year beginning after October 31 and before  
10 January 1, any plan year beginning in  
11 2009 or 2010, and

12 “(iii) in the case of a plan for which  
13 the valuation date is not the first day of  
14 the plan year, any plan year beginning in  
15 2009 or 2010.

16 “(C) PRE-APPLICABLE PLAN YEAR.—The  
17 term ‘pre-applicable plan year’ means, in con-  
18 nection with a plan, the second plan year pre-  
19 ceding the first applicable plan year of such  
20 plan.”.

21 (b) EFFECTIVE DATE.—The amendments made by  
22 this section shall take effect on the date of the enactment  
23 of this Act.

## **TITLE II—MULTIEMPLOYER PLANS**

### **SEC. 201. ADJUSTMENTS TO FUNDING STANDARD ACCOUNT RULES; REPORTING CLARIFICATION.**

#### **(a) AMORTIZATION PERIODS.—**

(1) AMENDMENT TO ERISA.—Section 304(b) of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new paragraph:

“(8) ELECTIVE SPECIAL RELIEF RULES.—

“(A) PLAN SPONSOR ELECTION.—

“(i) IN GENERAL.—Notwithstanding any other provision of this subsection, effective with the actuarial valuation for either of the first two plan years beginning after August 31, 2008, the plan sponsor of a multiemployer plan that meets the solvency test in subparagraph (B) may elect to use either the rule in clause (ii) or the rule in clause (iii) in maintaining its funding standard account.

“(ii) COMBINED OUTSTANDING BALANCE.—Under this clause, the outstanding balances of all amounts required to be amortized under both paragraph (2) and

1 paragraph (3) may be combined into one  
2 amount under each such paragraph, to be  
3 amortized in equal annual installments  
4 (until fully amortized) over a period of 30  
5 plan years.

6 “(iii) CERTAIN INVESTMENT  
7 LOSSES.—Under this clause, the total  
8 amount of the net investment losses, if  
9 any, incurred in either or both of the first  
10 two plan years ending after August 31,  
11 2008, may be charged as an item separate  
12 from other experience losses and amortized  
13 in equal annual installments (until fully  
14 amortized) over a period of 30 plan years.

15 “(B) SOLVENCY TEST.—An election may  
16 be made under this paragraph if the plan actu-  
17 ary certifies that the plan is projected to have  
18 sufficient assets to timely pay expected benefits  
19 and anticipated expenditures over the amortiza-  
20 tion period as extended.

21 “(C) RESTRICTION ON BENEFIT IN-  
22 CREASES.—In the case of a plan for which a  
23 rule described in subparagraph (A) is elected, in  
24 addition to any other applicable restrictions on  
25 benefit increases, an amendment increasing



1           benefits may not go into effect during the pe-  
2           riod of two plan years immediately following the  
3           plan year for which the rule is first effective,  
4           unless—

5                   “(i) the plan actuary certifies that  
6                   such increase is paid for out of additional  
7                   contributions not allocated to the plan at  
8                   the time the election was made and the  
9                   plan’s funded percentage and projected  
10                  credit balances for those two plan years  
11                  are reasonably expected to be generally at  
12                  the same levels as they would have been if  
13                  the benefit increase had not been adopted,  
14                  or

15                   “(ii) the amendment is required as a  
16                   condition of qualification under part I of  
17                   subchapter D of chapter 1 of the Internal  
18                   Revenue Code of 1986 or to comply with  
19                   other applicable law.”.

20           (2) AMENDMENT TO INTERNAL REVENUE CODE  
21           OF 1986.—Section 431(b) of the Internal Revenue  
22           Code of 1986 is amended by adding at the end the  
23           following new paragraph:

24                   “(8) ELECTIVE SPECIAL RELIEF RULES.—

25                   “(A) PLAN SPONSOR ELECTION.—

1           “(i) IN GENERAL.—Notwithstanding  
2           any other provision of this subsection, ef-  
3           fective starting with the actuarial valuation  
4           for either of the first two plan years begin-  
5           ning after August 31, 2008, the plan spon-  
6           sor of a multiemployer plan that meets the  
7           solvency test in subparagraph (B) may  
8           elect to use either the rule in clause (ii) or  
9           the rule in clause (iii) in maintaining its  
10          funding standard account.

11          “(ii) COMBINED OUTSTANDING BAL-  
12          ANCE.—Under this clause, the outstanding  
13          balances of all amounts required to be am-  
14          ortized under both paragraph (2) and  
15          paragraph (3) may be combined into one  
16          amount under each such paragraph, to be  
17          amortized in equal annual installments  
18          (until fully amortized) over a period of 30  
19          plan years.

20          “(iii) CERTAIN INVESTMENT  
21          LOSSES.—Under this clause, the total  
22          amount of the net investment losses, if  
23          any, incurred in either or both of the first  
24          two plan years ending after August 31,  
25          2008, may be charged as an item separate

1 from other experience losses and amortized  
2 in equal annual installments (until fully  
3 amortized) over a period of 30 plan years.

4 “(B) SOLVENCY TEST.—An election may  
5 be made under this paragraph if the plan actu-  
6 ary certifies that the plan is projected to have  
7 sufficient assets to timely pay expected benefits  
8 and anticipated expenditures over the amortiza-  
9 tion period as extended.

10 “(C) RESTRICTION ON BENEFIT IN-  
11 CREASES.—In the case of a plan for which a  
12 rule described in subparagraph (A) is elected, in  
13 addition to any other applicable restrictions on  
14 benefit increases, an amendment increasing  
15 benefits may not go into effect during the pe-  
16 riod of two plan years immediately following the  
17 plan year for which the rule is first effective,  
18 unless—

19 “(i) the plan actuary certifies that  
20 such increase is paid for out of additional  
21 contributions not allocated to the plan  
22 when the election was made and the plan’s  
23 funded percentage and projected credit bal-  
24 ances for those two plan years are reason-  
25 ably expected to be generally at the same

1 levels as they would have been if the ben-  
2 efit increase had not been adopted, or  
3 “(ii) the amendment is required as a  
4 condition of qualification under part I of  
5 subchapter D of chapter 1 or to comply  
6 with other applicable law.”.

7 (b) AUTOMATIC AMORTIZATION EXTENSIONS.—

8 (1) AMENDMENT TO ERISA.—Section  
9 304(d)(1)(A) of the Employee Retirement Income  
10 Security Act of 1974 is amended—

11 (A) by striking “(not in excess of 5 years)”  
12 and inserting “(not in excess of 10 years)”, and

13 (B) by redesignating subparagraph (C) as  
14 subparagraph (D) and inserting after subpara-  
15 graph (B) the following new subparagraph:

16 “(C) DEEMED APPROVAL.—

17 “(i) IN GENERAL.—An application  
18 under this paragraph shall be deemed ap-  
19 proved unless, within 45 days after it is  
20 submitted, the Secretary notifies the plan  
21 sponsor that the actuary has failed to cer-  
22 tify to one or more of the criteria listed in  
23 subparagraph (B).

24 “(ii) CORRECTIONS.—If, within 30  
25 days after receiving a notice under this

1           subparagraph, the plan sponsor corrects  
2           any omissions identified in the notice  
3           under this subparagraph or otherwise dem-  
4           onstrates that the actuary's certification  
5           satisfies subparagraph (B), the application  
6           shall be deemed approved.”.

7           (2) AMENDMENT TO INTERNAL REVENUE CODE  
8           OF 1986.—Section 431(d)(1)(A) of the Internal Rev-  
9           enue Code of 1986 is amended—

10           (A) by striking “(not in excess of 5 years)”  
11           and inserting “(not in excess of 10 years)”, and

12           (B) by redesignating subparagraph (C) as  
13           subparagraph (D) and inserting after subpara-  
14           graph (B) the following new subparagraph:

15           “(C) DEEMED APPROVAL.—

16           “(i) IN GENERAL.—An application  
17           under this paragraph shall be deemed ap-  
18           proved unless, within 45 days after it is  
19           submitted, the Secretary notifies the plan  
20           sponsor that the actuary has failed to cer-  
21           tify to one or more of the criteria listed in  
22           subparagraph (B).

23           “(ii) CORRECTIONS.—If, within 30  
24           days after receiving a notice under this  
25           subparagraph, the plan sponsor corrects

1           any omissions identified in the notice  
2           under this subparagraph or otherwise dem-  
3           onstrates that the actuary's certification  
4           satisfies subparagraph (B), the application  
5           shall be deemed approved.”.

6           (c) EXTENDED SMOOTHING PERIOD AND WIDER  
7 ASSET VALUATION CORRIDOR FOR CERTAIN LOSSES.—

8           (1) IN GENERAL.—

9           (A) The Secretary of the Treasury shall  
10          not treat the asset valuation method of a multi-  
11          employer plan as unreasonable solely because  
12          the plan elects to use either or both of the op-  
13          tions described in subparagraph (B) or (C). A  
14          plan may elect to use any or all of such options.  
15          The election of such options shall apply for pur-  
16          poses of sections 431 and 432 of the Internal  
17          Revenue Code of 1986.

18          (B) With respect to net investment losses  
19          incurred in either or both of the first two plan  
20          years ending after August 31, 2008, the plan  
21          may utilize a smoothing period of not more  
22          than ten years.

23          (C) For either or both of the first two plan  
24          years beginning after August 31, 2008, the  
25          asset value reflected by the method may not be

1           more than 130 percent of the current fair mar-  
2           ket value.

3           (2) DEEMED APPROVAL.—The election by a  
4           plan of either or both of the options described in  
5           paragraph (1) shall be deemed approved by the Sec-  
6           retary of the Treasury under section 412(d)(1) of  
7           the Internal Revenue Code of 1986.

8           (d) MODIFICATION OF CERTAIN AMORTIZATION EX-  
9           TENSIONS UNDER PRIOR LAW.—Any amortization exten-  
10          sions under the terms of section 412(e) of the Internal  
11          Revenue Code of 1986 (prior to enactment of the Pension  
12          Protection Act of 2006) that were granted to multiem-  
13          ployer plans shall remain in effect notwithstanding the im-  
14          pact of investment losses incurred by the plans in 2008,  
15          2009 or 2010, unless the plan sponsor elects otherwise.

16          (e) CLARIFICATION OF MULTIEMPLOYER REPORTING  
17          AND DISCLOSURE REQUIREMENTS.—Sections  
18          103(f)(2)(C) and 104(d)(1)(D) of the Employee Retire-  
19          ment Income Security Act of 1974 are both amended by  
20          striking “as an employer of the participant”.

21          (f) EFFECTIVE DATE.—

22                (1) The amendments made by this section shall  
23                take effect as of the first day of the first plan year  
24                beginning after August 31, 2008, provided however  
25                that any election a plan makes pursuant to this sec-

1       tion that affects the plan's funding standard account  
2       for the first plan year beginning after August 31,  
3       2008 shall be disregarded for purposes of applying  
4       the provisions of section 305 of the Employee Re-  
5       tirement Income Security Act of 1974 and section  
6       432 of the Internal Revenue Code of 1986 to that  
7       plan year.

8           (2) Notwithstanding paragraph (1), the restric-  
9       tions on plan amendments increasing benefits in sec-  
10      tions 304(b)(8)(C) of the ERISA and 431(b)(8)(C)  
11      of the Internal Revenue Code, as added by this sec-  
12      tion, shall be effective 30 days after the date of en-  
13      actment of this Act.

14   **SEC. 202. MULTIEMPLOYER PLANS IN ENDANGERED OR**  
15           **CRITICAL STATUS.**

16      (a) OPTIONAL LONGER CORRECTION PERIODS.—

17          (1) AMENDMENT TO ERISA.—

18           (A) FUNDING IMPROVEMENT PERIOD.—

19      Section 305(c)(4) of the Employee Retirement  
20      Income Security Act of 1974 is amended by re-  
21      designating subparagraphs (C) and (D) as sub-  
22      paragraphs (D) and (E), respectively, and by  
23      inserting after subparagraph (B) the following  
24      new subparagraph:



1           “(C) ELECTION TO EXTEND PERIOD.—The  
2           plan sponsor of an endangered or seriously en-  
3           dangered plan may elect to extend the applica-  
4           ble funding improvement period by up to 5  
5           years, including any extension of the period pre-  
6           viously elected pursuant to section 205 of the  
7           Worker, Retiree and Employer Relief Act of  
8           2008.”.

9           (B) REHABILITATION PERIOD.—Section  
10          305(e)(4) of such Act is amended by redesignig-  
11          nating subparagraph (B) as subparagraph (C)  
12          and by inserting after subparagraph (A) the fol-  
13          lowing new subparagraph:

14          “(B) ELECTION TO EXTEND PERIOD.—The  
15          plan sponsor of a plan in critical status may  
16          elect to extend the rehabilitation period by up  
17          to five years, including any extension of the pe-  
18          riod previously elected pursuant to section 205  
19          of the Worker, Retiree and Employer Relief Act  
20          of 2008.”.

21          (2) AMENDMENT TO INTERNAL REVENUE CODE  
22          OF 1986.—

23          (A) FUNDING IMPROVEMENT PERIOD.—  
24          Section 432(c)(4) of the Internal Revenue Code  
25          of 1986 is amended by redesignating subpara-

1           graphs (C) and (D) as subparagraphs (D) and  
2           (E), respectively, and by inserting after sub-  
3           paragraph (B) the following new subparagraph:

4                   “(C) ELECTION TO EXTEND PERIOD.—The  
5           plan sponsor of an endangered or seriously en-  
6           dangered plan may elect to extend the applica-  
7           ble funding improvement period by up to 5  
8           years, including any extension of the period pre-  
9           viously elected pursuant to section 205 of the  
10          Worker, Retiree and Employer Relief Act of  
11          2008.”.

12                   (B) REHABILITATION PERIOD.—Section  
13          432(e)(4) of such Code is amended by redesign-  
14          nating subparagraph (B) as subparagraph (C)  
15          and by inserting after subparagraph (A) the fol-  
16          lowing new subparagraph:

17                   “(B) ELECTION TO EXTEND PERIOD.—The  
18          plan sponsor of a plan in critical status may  
19          elect to extend the rehabilitation period by up  
20          to five years, including any extension of the pe-  
21          riod previously elected pursuant to section 205  
22          of the Worker, Retiree and Employer Relief Act  
23          of 2008.”.

1 (b) SIMPLIFICATION OF THE FUNDING IMPROVE-  
2 MENT PERIOD FOR CERTAIN SERIOUSLY ENDANGERED  
3 PLANS.—

4 (1) AMENDMENT TO ERISA.—Section 305(c) of  
5 the Employee Retirement Income Security Act of  
6 1974 is amended—

7 (A) by striking paragraph (5) and redesignig-  
8 nating paragraph (6) as paragraph (5), and

9 (B) in paragraph (1) by striking “(as  
10 modified by paragraph (5))”.

11 (2) AMENDMENT TO INTERNAL REVENUE CODE  
12 OF 1986.—Section 432(c) of the Internal Revenue  
13 Code of 1986 is amended—

14 (A) by striking paragraph (5) and redesignig-  
15 nating paragraph (6) as paragraph (5), and

16 (B) in paragraph (1) by striking “(as  
17 modified by paragraph (5))”.

18 (c) SOCIAL SECURITY LEVEL INCOME OPTION.—

19 (1) AMENDMENT TO ERISA.—Subparagraph  
20 (B)(i) of section 305(f)(2) of the Employee Retirement  
21 Income Security Act of 1974 is amended by  
22 striking “204(b)(1)(G)),” and inserting  
23 “204(b)(1)(G) or any stream of payments that is  
24 structured to be similar in amount and duration to  
25 such supplements),”.

1           (2) AMENDMENT TO INTERNAL REVENUE CODE  
2           OF 1986.—Subparagraph (A)(i) of section 432(f)(2)  
3           of the Internal Revenue Code of 1986 is amended by  
4           striking “411(b)(1)(A),” and inserting  
5           “411(b)(1)(A) or any stream of payments that is  
6           structured to be similar in amount and duration to  
7           such supplements),”.

8           (3) EFFECTIVE DATE.—

9           (A) IN GENERAL.—Except as provided in  
10          paragraph (2), the amendments made by this  
11          subsection shall apply as if included in sections  
12          202(a) and 212(a) of the Pension Protection  
13          Act of 2006.

14          (B) TRANSITION RULE.—

15               (i) In the case of a plan described in  
16               clause (ii), a plan shall not be required to  
17               comply with the amendments made by this  
18               section until the date that is 60 days after  
19               the date of enactment of this Act, but such  
20               a plan may comply on any otherwise per-  
21               mitted earlier date.

22               (ii) A plan is described in this clause  
23               if a restriction on benefit payments is or  
24               has been imposed, pursuant to section  
25               305(f) of the Employee Retirement Income

1 security Act of 1974 and section 432(f) of  
2 the Internal Revenue Code of 1986, in ef-  
3 fect with respect to such plan as of the  
4 date of enactment of this Act.

5 (d) TECHNICAL CORRECTIONS.—

6 (1) AMENDMENTS TO ERISA.—Section 305(c) of  
7 the Employee Retirement Income Security Act of  
8 1974 is amended—

9 (A) in paragraph (1)(B)(i)—

10 (i) by striking “plan, including—”  
11 and all that follows through “one proposal  
12 for reductions” and inserting “plan, in-  
13 cluding one proposal for reductions”,

14 (ii) by striking “, and” at the end of  
15 subclause (I) and inserting a period, and

16 (iii) by striking subclause (II),

17 (B) in paragraph (7)(A), by striking  
18 “(1)(B)(i)(I)” and inserting “(1)(B)(i)”,

19 (C) in paragraph (4) by adding at the end  
20 the following:

21 “(E) PLANS THAT ACHIEVE FUNDING IM-  
22 PROVEMENT BENCHMARKS WHILE IN ENDAN-  
23 GERED OR SERIOUSLY ENDANGERED STATUS.—

24 If the plan’s actuary certifies under subsection  
25 (b)(3)(A) that the plan has achieved the appli-

1 cable increase in the funding percentage de-  
2 scribed in paragraph (3) of this subsection and  
3 that the plan is nevertheless still in endangered  
4 status, the provisions of this subsection and  
5 subsection (d) shall remain in effect until the  
6 earlier of the expiration of the funding improve-  
7 ment period or the last day preceding the plan  
8 year for which the actuary certifies that the  
9 plan is no longer in endangered status.”, and

10 (D) in paragraph (4)(C)(ii) by striking all  
11 that follows “whichever is applicable,” and in-  
12 serting the following:

13 “shall end as of the close of the preceding plan year,  
14 except that, until the start of the rehabilitation plan adop-  
15 tion period—

16 “(I) the rules of subparagraphs  
17 (A) and (B) of subsection (d)(1) shall  
18 apply if, prior to the date the of the  
19 critical-status certification, the plan  
20 was in the funding improvement plan  
21 adoption period for the plan year, and

22 “(II) the rules of subsection  
23 (d)(2) shall apply if, prior to the date  
24 of the critical-status certification, the

1 plan was in the funding improvement  
2 period for the plan year.”.

3 (2) AMENDMENTS TO INTERNAL REVENUE  
4 CODE OF 1986.—Section 432(c) of the Internal Rev-  
5 enue Code of 1986 is amended—

6 (A) in paragraph (1)(B)(i)—

7 (i) by striking “plan, including—”  
8 and all that follows through “one proposal  
9 for reductions” and inserting “plan, in-  
10 cluding one proposal for reductions”,

11 (ii) by striking “, and” at the end of  
12 subclause (I) and inserting a period, and

13 (iii) by striking subclause (II),

14 (B) in paragraph (7)(A), by striking  
15 “(1)(B)(i)(I)” and inserting “(1)(B)(i)”,

16 (C) in paragraph (4) by adding at the end  
17 the following:

18 “(E) PLANS THAT ACHIEVE FUNDING IM-  
19 PROVEMENT BENCHMARKS WHILE IN ENDAN-  
20 GERED OR SERIOUSLY ENDANGERED STATUS.—

21 If the plan’s actuary certifies under subsection  
22 (b)(3)(A) that the plan has achieved the appli-  
23 cable increase in the funding percentage de-  
24 scribed in paragraph (3) of this subsection and  
25 that the plan is nevertheless still in endangered

1 status, the provisions of this subsection and  
2 subsection (d) shall remain in effect until the  
3 earlier of the expiration of the funding improve-  
4 ment period or the last day preceding the plan  
5 year for which the actuary certifies that the  
6 plan is no longer in endangered status.”, and

7 (D) in paragraph (4)(C)(ii) by striking all  
8 that follows “whichever is applicable,” and in-  
9 serting the following:

10 “shall end as of the close of the preceding plan year,  
11 except that, until the start of the rehabilitation plan adop-  
12 tion period—

13 “(I) the rules of subparagraphs  
14 (A) and (B) of subsection (d)(1) shall  
15 apply if, prior to the date the of the  
16 critical-status certification, the plan  
17 was in the funding improvement plan  
18 adoption period for the plan year, and

19 “(II) the rules of subsection  
20 (d)(2) shall apply if, prior to the date  
21 of the critical-status certification, the  
22 plan was in the funding improvement  
23 period for the plan year.”.



1 **SEC. 203. MULTIEMPLOYER PLAN MERGERS AND ALLI-**  
2 **ANCES.**

3 (a) MULTIEMPLOYER PLAN ALLIANCES.—

4 (1) AMENDMENTS TO ERISA.—

5 (A) Section 4231 of the Employee Retirement  
6 Income Security Act of 1974 is amended  
7 by adding at the end the following new sub-  
8 section:

9 “(e) MULTIEMPLOYER PLAN ALLIANCES.—

10 “(1) IN GENERAL.—The plan sponsor of a mul-  
11 tiemployer plan into which another multiemployer  
12 plan has been merged may designate the merger as  
13 an alliance to which the rules of this subsection  
14 apply by amending the plan—

15 “(A) to identify the allied plan, and

16 “(B) to delineate the terms of operation of  
17 the alliance, including the allocation of em-  
18 ployer contributions and experience gains and  
19 losses between the merged plan and the par-  
20 tially separate frozen allied plan described in  
21 paragraphs (2) and (3).

22 “(2) APPLICABLE PROVISIONS.—Except to the  
23 extent otherwise provided in the plan amendment  
24 under paragraph (1), sections 302, 304 and 305  
25 (minimum funding), Part 1 of Subtitle E (with-  
26 drawal liability), sections 4244A and 4281 (plan ter-

1       mination), part 3 of subtitle E (plan reorganization  
2       and insolvency) and section 4261 (financial assist-  
3       ance from the corporation) shall apply to the frozen  
4       allied plan and the plan into which the allied plan  
5       was merged as if they were separate plans.

6               “(3) FROZEN ALLIED PLAN TREATED AS SEPA-  
7       RATE PLAN.—

8               “(A) ASSETS AND LIABILITIES.—The fro-  
9       zen allied plan that is treated in part as a sepa-  
10      rate plan pursuant to this paragraph comprises  
11      the assets and liabilities of the allied plan as if  
12      it had been amended, effective immediately be-  
13      fore the effective date of the merger, to cease  
14      all benefit accruals.

15              “(B) EMPLOYERS MAINTAINING PLAN.—  
16      The employers that were obligated to contribute  
17      to the allied plan immediately before the effec-  
18      tive date of the merger, and any successors  
19      thereto whether by sale, reorganization or oth-  
20      erwise, shall be considered to be the employers  
21      maintaining the partially separate frozen allied  
22      plan, to the extent they continue to have an ob-  
23      ligation to contribute with respect to partici-  
24      pants or facilities covered by the allied plan.

1                   “(C) PARTICIPANTS AND BENE-  
2 FICIARIES.—The participants and beneficiaries  
3 of the allied plan immediately before the effec-  
4 tive date of the merger shall be considered to  
5 be the participants and beneficiaries of the par-  
6 tially separate frozen allied plan thereafter.

7                   “(4) TREATMENT OF MERGED PLAN AS SINGLE  
8 PLAN.—Except as provided in paragraphs (2) and  
9 (3), the allied plan and the plan into which it has  
10 been merged shall be treated as a single plan.

11                   “(5) OTHER RULES.—

12                   “(A) ADOPTION OF INITIAL PLAN AMEND-  
13 MENT.—The plan amendment initially desig-  
14 nating a merger as an alliance, identifying the  
15 allied plan and delineating the terms of the alli-  
16 ance must be adopted by no later than the last  
17 day of the plan year in which the merger takes  
18 effect.

19                   “(B) SUBSEQUENT AMENDMENTS.—That  
20 initial plan amendment may subsequently be  
21 modified or repealed, except that the plan gives  
22 notice of the change to the employers and par-  
23 ticipants of the allied plan at least 15 days be-  
24 fore the subsequent amendment takes effect.

1           “(C) DISCRETION TO TREAT MERGERS  
2           DIFFERENTLY.—The plan sponsor of a multi-  
3           employer plan may, in its discretion, treat some  
4           mergers as alliances and others as full mergers,  
5           and may prescribe different terms of operation  
6           for different alliances, if the basis for the dis-  
7           tinctions is not unreasonable.”.

8           (B) Subsection (b) of section 4231 of such  
9           Act is amended by striking “and” at the end of  
10          paragraph (3), by striking the period at the end  
11          of paragraph (4) and inserting “, and”, and by  
12          inserting after paragraph (4) adding at the end  
13          the following:

14          “(5) a merger that is designated as an alliance  
15          under subsection (e) shall not be treated as failing  
16          to meet any of the criteria of this subsection solely  
17          because benefits under the allied plan are, or are ex-  
18          pected to be, reduced or eliminated pursuant to sec-  
19          tion 305 as a result of the endangered or critical  
20          status of the frozen allied plan.”.

21          (C) Section 404(a) of the Employee Retire-  
22          ment Income Security Act of 1974 is amended  
23          by adding at the end the following new para-  
24          graph:

1           “(3) With respect to a merger of multiemployer  
2           plans, including a merger that is designated as an  
3           alliance under section 4231(e), the plan sponsors of  
4           the merging plans shall be considered to meet the  
5           requirements of paragraph (1)(A) if the plan spon-  
6           sors determine that the merger is not reasonably  
7           likely to be adverse to the long-term interests of the  
8           participants and beneficiaries of the plan for which  
9           the plan sponsors are responsible prior to the merg-  
10          er.”.

11                           (i) Section 4231(c) of the Employee  
12           Retirement Income Security Act of 1974 is  
13           amended by striking “The merger of multi-  
14           employer plans or the transfer” and insert-  
15           ing “The merger of multiemployer plans,  
16           including a merger that is designated as an  
17           alliance, or the transfer”.

18           (2) AMENDMENTS TO INTERNAL REVENUE  
19           CODE OF 1986.—Section 412 of the Internal Revenue  
20           Code of 1986 is amended by adding at the end the  
21           following:

22           “(e) MULTIEMPLOYER PLAN ALLIANCES.—

23                           “(1) IN GENERAL.—Except to the extent other-  
24           wise provided in the plan amendment under section  
25           4231(e)(1) of the Employee Retirement Income Se-

1 security Act of 1974 designating a multiemployer plan  
2 merger as an alliance, this section and sections 431  
3 and 432 shall apply to the frozen allied plan and the  
4 plan into which the allied plan was merged as if they  
5 were separate plans.

6 “(2) EMPLOYERS MAINTAINING PLAN.—The  
7 employers that were obligated to contribute to the  
8 allied plan immediately before the effective date of  
9 the merger, and any successors thereto whether by  
10 sale, reorganization or otherwise, shall be considered  
11 to be the employers maintaining the partially sepa-  
12 rate frozen allied plan to the extent they continue to  
13 have an obligation to contribute with respect to par-  
14 ticipants or facilities covered by the allied plan.

15 “(3) PARTICIPANTS AND BENEFICIARIES.—The  
16 participants and beneficiaries of the allied plan im-  
17 mediately before the effective date of the merger  
18 shall be considered to be the participants and bene-  
19 ficiaries of the partially separate frozen allied plan  
20 thereafter.

21 “(4) TREATMENT OF MERGED PLAN AS SINGLE  
22 PLAN.—Except as provided in paragraphs (2) and  
23 (3) of section 4231(e) of the Employee Retirement  
24 Income Security Act of 1974, the allied plan and the

1 plan into which it has been merged shall be treated  
2 as a single plan.

3 “(5) ALLIANCE; ALLIED PLAN.—For purposes  
4 of this subsection, the terms ‘alliance’ and ‘allied  
5 plan’ shall have the same meanings as they have  
6 under section 4231(e) of the Employee Retirement  
7 Income Security Act of 1974.”.

8 (b) PBGC ASSISTANCE FOR MULTIEMPLOYER PLAN  
9 MERGERS.—Section 4231 of the Employee Retirement In-  
10 come Security Act of 1974, as amended by this Act, is  
11 amended by adding at the end the following:

12 “(f) FACILITATED MERGERS.—

13 “(1) IN GENERAL.—When requested to do so  
14 by the plan sponsors, the corporation shall take rea-  
15 sonable actions to promote and facilitate the merger  
16 of two or more multiemployer plans, including a  
17 merger that is designated as an alliance, if it deter-  
18 mines that the transaction is in the interests of the  
19 participants and beneficiaries of at least one of the  
20 plans, and is not reasonably expected to be adverse  
21 to the long-term interests of the participants and  
22 beneficiaries of the other plan or plans. Such facili-  
23 tation may include training, technical assistance,  
24 mediation, communication with stakeholders and

1 support with related requests to other government  
2 agencies, among other activities.

3 “(2) FINANCIAL ASSISTANCE.—To facilitate  
4 mergers, including mergers designated as alliances,  
5 which it determines are reasonably necessary to en-  
6 able one or more of the plans involved to avoid or  
7 postpone insolvency, the corporation may provide fi-  
8 nancial assistance to the merged plan if it reason-  
9 ably expects that such financial assistance will re-  
10 duce the corporation’s likely long-term loss with re-  
11 spect to the plans involved.”.

12 (c) EFFECTIVE DATE.—The amendments made by  
13 this section shall take effect as of the first day of the first  
14 plan year beginning on or after January 1, 2009.

15 **SEC. 204. STRENGTHENING PARTICIPANTS’ BENEFIT PRO-**  
16 **TECTIONS.**

17 (a) INCREASE IN MULTIEMPLOYER BENEFIT GUAR-  
18 ANTEE.—Paragraph (1) of section 4022A(c) of the Em-  
19 ployee Retirement Income Security Act of 1974 is amend-  
20 ed to read as follows:

21 “(1) Except as provided in subsection (g), the  
22 monthly benefit of a participant or a beneficiary  
23 which is guaranteed under this section by the cor-  
24 poration with respect to a plan is the product of the



1 number of the participant's years of credited service  
2 multiplied by the sum of—

3 “(A) 100 percent of the accrual rate up to  
4 \$11, plus 75 percent of the lesser of—

5 “(i) \$33, or

6 “(ii) the accrual rate, if any, in excess  
7 of \$11, and

8 “(B) 50 percent of the lesser of—

9 “(i) \$40 or

10 “(ii) the accrual rate, if any, in excess  
11 of \$44.”.

12 (b) QUALIFIED PARTITION OF ELIGIBLE MULTIEM-  
13 PLOYER PLANS.—

14 (1) QUALIFIED PARTITIONS.—Section 4233 of  
15 the Employee Retirement Income Security Act of  
16 1974 is amended by adding at the end the following  
17 new subsection:

18 “(g) QUALIFIED PARTITION OF ELIGIBLE MULTIEM-  
19 PLOYER PLANS.—

20 “(1) IN GENERAL.—Notwithstanding sub-  
21 sections (a) through (f), upon the election by the  
22 plan sponsor of an eligible multiemployer plan of a  
23 qualified partition, the corporation shall order a par-  
24 tition of the electing multiemployer plan in accord-  
25 ance with this subsection, effective on the first day

1 of the first month that begins at least 90 days after  
2 the date the multiemployer plan made the qualified  
3 partition election.

4 “(2) ELIGIBLE MULTIEMPLOYER PLAN.—An el-  
5 igible multiemployer plan is a multiemployer plan as  
6 to which—

7 “(A) the plan actuary has certified pursu-  
8 ant to section 305(c) that the plan is currently  
9 in critical status (within the meaning of section  
10 305(b)(2));

11 “(B) a substantial reduction in the amount  
12 of aggregate contributions under the plan has  
13 resulted or will result from—

14 “(i) cases or proceedings under title  
15 11, United States Code, with respect to  
16 employers, or

17 “(ii) employers’ ceasing to be in busi-  
18 ness, if such employers did not pay the full  
19 amount of withdrawal liability demanded  
20 by the plan under section 4219;

21 “(C) the plan sponsor has certified, con-  
22 sistent with projections provided by the plan ac-  
23 tuary, that the plan is likely to become insol-  
24 vent;

1           “(D) the plan sponsor has certified, con-  
2           sistent with projections provided by the plan ac-  
3           tuary, that contributions will have to be in-  
4           creased significantly to prevent insolvency;

5           “(E) the plan sponsor has certified that, as  
6           of the last day of each of the two immediately  
7           preceding plan years—

8                   “(i) the ratio of the number of the  
9                   plan’s retirees, beneficiaries of deceased  
10                  participants, and terminated vested partici-  
11                  pants to the number of the plan’s active  
12                  participants for each such year was at  
13                  least 2 to 1; and

14                   “(ii) the ratio of benefit payments  
15                   made by the plan for each such year to  
16                   contributions required to be made to the  
17                   plan under section 304 or 305(e), as appli-  
18                   cable, for each such year was at least 2 to  
19                   1; and

20           “(F) the plan sponsor has certified, con-  
21           sistent with projections provided by the plan ac-  
22           tuary, that partition would significantly reduce  
23           the likelihood that the plan will become insol-  
24           vent.

1           “(3) TRANSFERS UNDER QUALIFIED PARTITION  
2           ORDER.—The corporation’s qualified partition order  
3           shall provide for transfers as follows:

4                   “(A) An initial transfer of—

5                           “(i) no more than the nonforfeitable  
6                           benefits directly attributable to service with  
7                           the employers referred to in paragraph  
8                           (2)(ii), and

9                           “(ii) assets attributable to any with-  
10                          drawal liability payments by such employ-  
11                          ers and, as adjusted by any gains or losses  
12                          thereon, and reduced by any benefit pay-  
13                          ments made with regard to service with the  
14                          employers.

15                   “(B) As of the last day of each plan year  
16                   following a plan year in which a qualified parti-  
17                   tion has occurred, the plan sponsor shall deter-  
18                   mine whether during such plan year, the aggre-  
19                   gate contributions under the plan declined by  
20                   10 percent or more as a result of events de-  
21                   scribed in paragraph (2)(ii); and if such decline  
22                   has occurred, an additional transfer of –

23                           “(i) no more than the nonforfeitable  
24                           benefits directly attributable to service with  
25                           employers that meets the requirements of

1 paragraph (2)(ii) after the election of a  
2 qualified partition, and

3 “(ii) assets attributable to any with-  
4 drawal liability payments by such employ-  
5 ers, as adjusted by any gains or losses  
6 thereon, and reduced by any benefit pay-  
7 ments made with regard to service with the  
8 employers.

9 “(4) PLAN CREATED BY QUALIFIED PARTI-  
10 TION.—The plan created by the qualified partition  
11 is—

12 “(A) a successor plan to which section  
13 4022A applies, and

14 “(B) a terminated multiemployer plan to  
15 which section 4041A(d) applies, with respect to  
16 which only the employers described in para-  
17 graphs (2)(ii) and (3)(ii) have withdrawal liabil-  
18 ity.”.

19 (2) EFFECT OF QUALIFIED PARTITION ON PRE-  
20 MIUMS.—

21 (A) Clause (i) of section 4006(a)(3)(C) of  
22 the Employee Retirement Income Security Act  
23 of 1974 is amended by adding at the end the  
24 following:

1       “For purposes of this subparagraph, the value of as-  
2   sets held by the corporation and the basic benefits guaran-  
3   teed for multiemployer plans shall not include assets and  
4   liabilities transferred pursuant to a qualified partition  
5   order under section 4233(g).”.

6               (B) Section 4022A(f) of the Employee Re-  
7               tirement Income Security Act of 1974 is  
8               amended by adding at the end the following:

9               “(5) Basic benefits guaranteed in connection  
10       with assets and liabilities transferred to the corpora-  
11       tion pursuant to a qualified partition order under  
12       section 4233(g) shall be disregarded under subpara-  
13       graphs (1), (2), and (3)”.

14              (3) PBGC GUARANTEE OF PARTITIONED BENE-  
15       FITS.—

16              (A) Section 4022A of the Employee Retire-  
17       ment Income Security Act of 1974 is amended  
18       by adding at the end the following:

19              “(i) The monthly benefit of a participant or a bene-  
20       ficiary whose benefit was transferred pursuant to a quali-  
21       fied partition which is guaranteed under this section by  
22       the corporation with respect to a plan is the nonforfeitable  
23       benefits of the participant or beneficiary transferred pur-  
24       suant to the qualified partition.”.

1 (B) Section 4022A(c)(1) of the Employee  
2 Retirement Income Security Act of 1974 is  
3 amended by striking “subsection (g)” and in-  
4 serting “subsections (g) and (i)”.

5 (c) FINANCING FOR QUALIFIED PARTITIONS AND  
6 OTHER SPECIAL MATTERS.—

7 (1) OBLIGATIONS OF THE CORPORATION.—The  
8 second sentence of section 4002(g)(2) of the Em-  
9 ployee Retirement Income Security Act of 1974 is  
10 amended to read as follows:

11 “The United States Government is not liable for any  
12 obligation or liability incurred by the corporation, except  
13 with respect to liabilities transferred pursuant to a quali-  
14 fied partition of a multiemployer plan under section  
15 4233(g) and such other special matters as may be des-  
16 ignated in legislation making funding available therefor.”.

17 (2) PBGC FUND ESTABLISHED.—

18 (A) Fund Established. Section 4005 of the  
19 Employee Retirement Income Security Act of  
20 1974 is amended by deleting subsections (d)  
21 and (e), redesignating existing subsections (f)  
22 through (h) as subsections (e) through (g), and  
23 inserting a new subsection (d), as follows:

24 “(d) ESTABLISHMENT OF FIFTH FUND; PURPOSE;  
25 AVAILABILITY, ETC.—

1           “(1) IN GENERAL.—A fifth fund is hereby es-  
2           tablished on the books of the Treasury of the United  
3           States. Such fund shall be for the support of special  
4           matters undertaken by the corporation to minimize  
5           its reasonably expected long-term risk of loss with  
6           respect to a plan and protect the reasonable benefit  
7           expectations of plan participants and beneficiaries  
8           pursuant to its responsibilities under section 4002(a)  
9           to encourage the continuation and maintenance of  
10          voluntary private pension plans for the benefit of  
11          their participants while maintaining premiums at the  
12          lowest level consistent with that objective.

13          “(2) USE OF FUND.—The fund established by  
14          this subsection shall be used to finance obligations  
15          undertaken by the corporation under section 4233  
16          (partition of multiemployer plans) and such other  
17          matters as may be identified from time to time in  
18          legislation making funding available therefor.

19          “(3) CREDITS TO FUND.—The fund established  
20          under this subsection shall be credited with funds  
21          made available to the corporation that are des-  
22          ignated for special matters and the earnings thereon,  
23          including any amounts received in connection with a  
24          qualified partition under section 4233(g), and shall  
25          not include premiums paid under section 4007, em-



1        ployer liability or withdrawal liability payments, the  
2        assets of terminated plans or repayments of finan-  
3        cial assistance under section 4261 or other amounts  
4        received in connection with terminated or insolvent  
5        plans.

6            “(4) TRANSACTIONS WITH OTHER FUNDS.—  
7        Notwithstanding paragraph (3), this fund may en-  
8        gage in transactions with the other funds established  
9        under this section to the extent reasonable and nec-  
10       essary to meet liquidity demands and maximize the  
11       ability of the corporation to accomplish its mission  
12       under section 4002(a) without increasing the pre-  
13       miums payable under section 4006.

14           “(5) INVESTMENTS.—The corporation may in-  
15       vest amounts of the fund in such obligations as the  
16       corporation considers appropriate.

17           “(6) OBLIGATIONS OF UNITED STATES.—Not-  
18       withstanding any other provision of this title, obliga-  
19       tions of the corporation that are financed by the  
20       fund created by this subsection shall be obligations  
21       of the United States.”.

22           (2) CONFORMING AMENDMENTS.—

23                (A) Section 4022A(g) of such Act is  
24       amended by striking paragraph (2).

1 (B) Part 1 of subtitle E of title IV of such  
2 Act is amended by striking section 4222, and  
3 the table of contents for such Act is amended  
4 by striking the item relating to section 4222.

5 (d) EFFECTIVE DATE.—

6 (1) The amendments made by subsection (a)  
7 shall apply with respect to plans that first apply for  
8 financial assistance from the Pension Benefit Guar-  
9 antee Corporation after the date of enactment of  
10 this Act.

11 (2) The amendments made by subsections (b)  
12 and (c) shall take effect on the date of enactment  
13 of this Act.